



An
Bord
Pleanála

Inspector's Report

ABP-321445-24

Development	Provision of roof lights and escape window for attic conversion (Granted previously under ref F23A/0137).
Location	10 Boroimhe Elms, Swords, Co. Dublin, K67 EH48.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0246
Applicant(s)	Jim Creegan
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party V Conditions
Appellant(s)	Jim Creegan
Observer(s)	None
Date of Site Inspection	1/4/25
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The application site comprises the two-storey element of a duplex apartment at 10 Boroimhe Elmes, which is located c. 1km to the south of the town centre of Swords, in County Dublin.
- 1.2. The appeal site is part of a larger mix of duplex units and conventional houses located off the R132/old N1 just north of Dublin Airport.
- 1.3. The building faces onto a shared parking landscaped area within the overall development to the south. To the rear the building faces a vacant site but on which residential development has been permitted.

2.0 Proposed Development

- 2.1. This application comprises of a repeat application on the appeal site.
- 2.2. In the previous application Reg. Ref. F23A/0137 / ABP-317392/23 An Bord Pleanála granted planning permission for the conversion of the attic to a habitable room but omitted a secondary means of fire escape and roof lights by way of condition.
- 2.3. The application currently being considered is to provide for the elements removed by way of condition under Reg. Ref. F23A/0137 / ABP-317392/23 for roof lights and secondary means of escape window to the north and south roof slopes for a permitted attic conversion seeks to rectify this situation.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 Fingal County Council decided to grant planning permission by order dated 20/11/24 subject to 7 conditions.

Condition 2 required the following:

Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, revised elevation, roof, and floor plans indicating the following:

- (a) The Cabrio window on the northern roof slope shall be omitted and replaced by 1 Velux window.*
- (b) The southern roof slope shall include 1no Velux rooflight only, the details and location of which shall be agreed with Fingal County Council.*
- (c) The external finishes shall harmonise in colour and texture with the existing apartment building on site.*
- (d) No light tunnels are permitted as part of this grant permission.*

Reason *In the interest of visual amenity and interest of clarity*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial area planners report dated 9 / 5 / 24 assessed the application in terms of the principle of development, planning history, impact on residential amenity of the area, transport considerations and wastewater. The initial report recommended that further information was requested related to the following items:

- 1) The applicant is requested to submit additional details to the Planning Authority to provide a rationale to justify the necessity of the increase in the size of the permitted roof light and the proposed secondary means of fire escape at roof level on the northern roof slope, including justification for the proposed dimensions, scale and design and also the consideration of alternative solutions.*
- 2.a) Revised drawings addressing all inconsistencies between existing elevations on site and those presented in the drawings, and the inconsistency in Velux window fire escape window configuration presented across drawings.*
- b) All plans and particulars should include appropriate and accurate labelling and keys as well as annotated accurate measurements of what is proposed.*
- c) Revised drawings detailing the proposed southern roof slope with the 1no. Velux window and 1no. roof light positioned east of the proposed Velux window omitted.*
- d) Information detailing if the proposed Velux fire escape window will have a dual function as a Cabrio Balcony and secondary means of fire escape.*

e) Information on the type and specification of Velux Cabrio / fire escape window to be installed.

3.2.2. Other Technical Reports

- **Transportation Planning Division:** Response dated 19/3/24 outlining no objection to the proposed development.
- **Water Services:** Response dated 17/4/24 outlining no objection, subject to conditions.
- **Dublin Airport Authority:** Response dated 25/4/24 outlining no comment other than to consult with the IAA and AirNav Ireland.
- **Uisce Eireann:** Response dated 19/4/24 outlining no objection, subject to conditions.

3.2.3 A Further Information response was received on 31/10/24. The further information received by the planning authority was not deemed to be significant and the application was not re-advertised. The Further Information response included the following:

- A letter dated 22/10/24 (received by Fingal County Council 31/10/24)
- Drawing No.1 Plans, Sections, Elevations.
- Drawing No.2 Existing contiguous elevation
- Drawing No.3 Proposed contiguous elevation.
- Drawing No. 4 Site layout plan

3.2.4 The second planners report dated 14/11/24 noted that the cabrio window / balcony would injure the residential and visual amenity of adjacent properties. Also, the 3-no. proposed Velux windows on the southern roof would be excessive and should be reduced to 2 No. The area planner recommended that planning permission be granted, subject to conditions, including condition No.2 outlined above.

3.3.1 There are no third-party observations on file.

4.0 Planning History

4.1 *Subject land*

4.1.1 **F23A/0137 (ABP-317392-23).** Application for the conversion of existing attic space to habitable accommodation with ensuite, the provision of Velux roof lights to south facing roof elevation, Velux fire escape window and Velux windows and light tunnels to north facing roof elevations. Permission granted, subject to conditions including condition 2 which required the following:

2. Prior to commencement of development the developer shall submit for the written agreement of the planning authority revised elevation, roof and floor plans indicating the following.

a) The roof light to the front/south slope of the roof shall be omitted.

b) The 6 number roof lights and 1 light tunnel on the rear/south roof slope shall be omitted and replaced by 2 roof lights measuring 450mm by 450mm.

c) The attic room shall be used for storage purposes only.

d) The external finishes shall harmonise in colour and texture with the existing apartment building on site.

Reason: *In the interests of visual amenity, to comply with building control regulations and the requirements of condition 22 of F99A/0712*

This decision was the subject of a first party appeal against condition 2. The Board decided to amend condition 2 as set out below:

2. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, revised elevation, roof, and floor plans indicating the following:

- a) *The six number roof lights and one tunnel light on the rear / south roof slope shall be omitted and replaced by two roof lights measuring 450 millimetres by 450 millimetres.*
- b) *The external finishes shall harmonise in colour and texture with the existing apartment building on site.*

Reason: *In the interest of visual amenity*

Reg. Ref. F99A/0712: Application for a mix of houses/duplex apartments including this site. Condition 22 required that the roof space be used for storage or building plant/services only.

4.1.2 *Site to the north and east*

ABP-314253-22. Permission granted for 7-year permission for 219 no. apartments, creche and all associated site works.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1 The *Fingal County Development Plan 2023-2029* is the operational plan for the area. The appeal site is zoned 'RS,' Residential with the associated land use objective '*to provide for residential development and to protect and /or improve residential amenity.*' The appeal site is also located within the Dublin Airport Noise Zone C.

5.1.2 The following sections /policies / objectives are pertinent:

Section 14.10.2.5 which states that roof alterations (including attic conversions and dormer extensions) will be assessed against a number of criteria including the character of the area, existing roof variations in the area, distance to the proposed roof end and harmony with the rest of the roof structure. It is noted that excessive overlooking should be avoided.

SPQH41: which seeks to support the extension of existing dwellings.

SPQ043: which seeks to promote the use of contemporary / innovative design.

SPQH045: which seeks to encourage sensitively designed extensions to existing dwellings.

Other relevant guidance

Development Management Guidelines 2007: Which seeks to ensure the conditions are not included which effectively negates the grant of permission.

5.2 Natural Heritage Designations

5.2.1 There are no designated sites in the immediate vicinity of the appeal site. The closest sites are the Malahide Estuary SPA and the Malahide Estuary SPA which are 2.7km to the north-east of the site. There is no connection to any European (Natura 2000) sites and no pathways.

5.3 EIA Screening

5.3.1 The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1 A first party appeal against condition 2a), b) and d) has been lodged by Jim Creegan.

6.1. Grounds of Appeal

- The number and size of the rooflights was not seen as excessive and was adjusted to meet with Fingal County Council requirements.
- The design allows for the use of the attic for human habitation as intended and the sole purpose of making this application.
- The limitation on the number of windows reduces the effectiveness and appeal of the space.
- Infringes on secondary means of escape.

- The view from the proposed rooflights would not overlook or impose on any adjacent buildings.
- The cabrio window would not create a dominant or overlooking issue and would not create a negative impact on the rear slope of the building.
- The elimination of 2 of the rooflights from the front roof is unnecessary and has a negative impact on the proposed internal space.
- There is no issue with condition 2(c).
- The light tunnels already exist, there are no new light tunnels proposed.

6.2. Planning Authority Response

6.2.1 The file includes a response form the Planning Authority dated 8/1/25 which states:

- The statement made by the appellant in the first paragraph of the appeal is incorrect, the appellant was asked to reduce the number of roof lights and windows on the southern slope by way of the further information request.
- An Bord Pleanála is requested to uphold the decision of the Planning Authority.
- In the event that this appeal is successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme, the inclusion of a bond / cash security for residential developments and a tree bond or a contribution in respect of a shortfall of play facilities.

6.3. Observations

- There are no observations on file.

6.4. Further Responses

- There are no further responses on file.

7.0 Assessment

7.1 I note the planning history relating to this site, essentially this is a repeat application to restore the elements removed by condition under F23A/0137 / ABP-317392/23. The condition had the effect to change the use of the space of the permitted attic conversion from a habitable area to storage only. The reason for this was the removal of the Velux window which formed a secondary means of escape necessary for attic conversions to conform with building regulations so that they can be safely used for habitation purposes.

7.2 This appeal relates to a first party appeal against condition 2 a), b) and d) only. I consider that there are no other planning issues raised in the application, other than the said condition, and I recommend that the Board consider the appeal under section 139 of the Planning and Development Acts 2000, as amended, and confine its consideration to the matters raised in the appeal. Each of the conditions which have been the subject of the appeal are assessed under separate headings below.

Condition 2(a)-Cabrio window

7.3 With respect to condition 2a) the appellants state that the Cabrio window would not cause any domination or overlooking issues and would not create a negative impact on the rear slope of the building.

7.4 The area planner's report states the Cabrio window, if permitted would injure the residential and visual amenity of adjacent properties and would be set an unfavourable precedent for similar development in the area.

7.5 Having considered the plans on file, and having been on site, I do not share the concerns of the planning authority.

7.6 Firstly, for the information of the Board, it is noted that a Cabrio window is a window type where the window performs distinct functions so that when the window is opened it turns into a balcony space that an adult can stand in without crouching or watching their head.

7.7 Secondly the window would provide a secondary means of escape. The permitted attic conversion is at roof level of an existing upper floor duplex apartment and as such this is the only means of providing such an escape. The previous decision by An Bord Pleanála gave planning permission for the attic conversion but the omission of a

secondary escape by condition meant that it would not be possible to use the permitted attic for habitable purposes. I make the Board aware that the Development Management Guidelines state that conditions should not be so unreasonable to nullify the permission. The effect of this condition would prevent the use of the attic space for habitation which was the application applied for in the first instance.

7.8 Ordinarily upper floor balconies in developments such as in this case could be considered problematic due to the potential for undue impacts on residential amenities on abutting properties. However, in this case, Cabrio windows are only large enough to accommodate one person only. Therefore, in my opinion, it is unlikely that the Cabrio window would cause any undue impacts on the residential amenities of abutting properties.

7.7 In my opinion condition 2(a) should be omitted. I consider the condition to be unreasonable. The condition would not allow a secondary means of escape for a permitted attic conversion to habitable use.

Condition 2(b) Velux windows within the front roof

7.8 With respect to condition 2(b) the first party appellant states that the elimination of 2 of the rooflights from the front slope of the is unnecessary and would have a negative impact on the permitted internal space.

7.9 The area planner's report states that 3 Velux windows on the front (southern) roof slope would be excessive, and the number should be reduced to two.

7.10 I would agree with the area planner that the number of windows proposed for the front roof is excessive. I note that the rooflight on the eastern side of the roof would provide light for the stairs and such is important. However, I would question the benefit of the roof light on the western side of the front roof. The central Velux window would provide sufficient light for this part of the attic room.

7.11 Condition 2(b) should be retained as it achieves a reasonable balance between allowing light into the permitted habitable attic conversion and protecting the residential amenity of the surrounding area.

Condition 2(d) Light tunnels

7.12 With respect to condition 2(d) the appellants state that the light tunnels shown already exist and that no new light tunnels are proposed.

- 7.13 The area planners report notes that a light tunnel is in place which was specifically conditioned to be omitted in the parent permission on the appeal site (F23A/0137 /ABP-317392-23).
- 7.14 Having been on site, I can confirm to the Board that there are three light tunnels on the northern roof. The light tunnels are in the same location as shown on the drawings submitted as part of this application.
- 7.15 The planning status of the third light tunnel is unclear. The statutory notices did not seek to amend Condition 2(d) of the parent permission in relation to the inclusion of a third light tunnel on the rear roof.
- 7.16 The light tunnels are relatively minor and do not have an undue impact on the amenity of the area. I therefore recommend that condition 2(d) be omitted. Should the Board be of a mind to retain condition 2(d) then I would recommend that the condition be amended to give direction in relation to the maximum number of light tunnels permitted on the rear roof.

8 AA Screening

- 8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development is located within an existing residential development in Swords, Co. Dublin. The proposal comprises of the provision of roof lights and a secondary means of escape window to the north and south roof slopes for a permitted attic conversion.
- 8.2 The closest sites are the Malahide Estuary SPA and the Malahide Estuary SPA which are 2.7km to the north-east of the site. There is no connection to any European (Natura 2000) sites and no pathways.
- 8.1 Having considered the nature, scale, and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The small scale of the proposal; and
 - The absence of connectivity to any European site and the existing nature of the building within an industrial area.

8.2 I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9 Recommendation

9.1 Arising from my assessment above therefore I recommend that the Board:

- Remove Condition 2(a).
- Retain Condition 2(b).
- Remove condition 2(d).

10 Reasons and Considerations

11.1 Having regard to the nature and scale of the proposed development and the pattern of development in the area, it is considered that the provision of roof lights one of which provides for a fire escape route would not have a significant impact on the residential or visual amenities of the area and would therefore be in accordance with the proper planning and sustainable development of the area.

11 Conditions

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ronan Murphy

Ronan Murphy
Planning Inspector

9 April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321445-24		
Proposed Development Summary	Provision of roof lights and escape window for attic conversion (Granted previously under ref F23A/0137).		
Development Address	10 Boroimhe Elms, Swords, Co. Dublin, K67 EH48.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	X
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	10(b)(i): Construction of more than 500 dwelling units 10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Proceed to Q3.
No	Tick or leave blank		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	The proposed development comprises of alterations to an existing residential development on a site with an area of c.142m ² . The proposal is below the thresholds set out in Class 10(b)(i) and 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.	The proposed scheme falls below the applicable thresholds.

5. Has Schedule 7A information been submitted?		
No	Tick/or leave blank	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ Date: _____