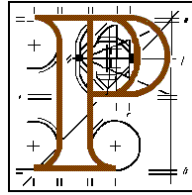


An Bord Pleanála



Inspector's Report

Reference No.: 06D.RL.2231.

Details of Reference: Whether the construction of a single-storey extension and alterations to front window constitute exempted development.

Referred By: Ms. Rose Syms.

Other Parties to the Referral: None.

Planning Authority: Dun Laoghaire-Rathdown County Council.

Planning Authority Ref.: 04/05.

Location: 8 Gledswood Close, Clonskeagh.

Site Inspection: 6th July, 2005.

Inspector: Bernard Dee.

1.0 SITE LOCATION AND DESCRIPTION

The referral site is located at 8 Gledswood Close, Clonskeagh, to the west of Roebuck Road and to the south of Bird Avenue. Gledswood Close is located between Roebuck Road to the east and Gledswood Park to the west, both running in a north-south direction. Gledswood Close runs in an east-west direction off Gledswood Park and accommodates nine semi-detached, two-storey dwellings. No. 8 is one of a pair at the easternmost end of Gledswood Close adjacent to the turning circle.

2.0 BACKGROUND TO REFERRAL

Planning History

ENF.181/04 relates to enforcement action taken by the Planning Authority on foot of a complaint by the occupier of 9 Gledswood Close, received by the Planning Authority on 12th August, 2004. A warning letter under Section 152(1) of the Planning and Development Act, 2000-2002, issued on 24th August, 2004, with respect to “*alterations to front and erection of extension to the rear of 8 Gledswood Close*”. The Planning Authority carried out a site inspection and a memo of 23rd September, 2004, from the Planning Inspector, stated that planning permission was required for both the extension to the side and rear and for the bay window. The memo states that the extension measures approximately 22.5 square metres in area but that approximately 1.1 metre of the extension extends to the side of the dwelling and that a window consisting of glass blocks has been incorporated into the side wall of the extension adjoining No. 9 Gledswood Close, less than the 1 metre required distance from the boundary.

A letter to Ms. Rose Syms, resident of 8 Gledswood Close, stating these facts was issued on 12th October, 2004, and a response from Deaton Lysaght Architects on behalf of Ms. Syms was received by the Planning Authority on 7th December, 2004. Further correspondence between Ms. Syms, solicitors on behalf of the occupant of No. 9 Gledswood Close and the Planning Authority are on file, to which I draw the Board’s attention and Deaton Lysaght Architects on behalf of Ms. Syms in a letter received by the Planning Authority on 19th January, 2005, state their intention to seek a Section 5 declaration and referral and ask that enforcement action be postponed until this has been adjudicated upon.

Planning Authority Assessment

A Planner’s Report dated 10th February, 2005, considered that the development comprising the retention of the extension to the side and rear and the bay window to the front at 8 Gledswood Close, as outlined in the plans and documentation submitted to the Planning Authority on 28th January, 2005, is not considered to be exempted development and that accordingly a permission for retention under Section 32 of the Planning and Development Act, 2000-

2002, would be required. The Planning Authority assessment of this case is concise enough to reproduce verbatim as follows:

The bay window to the front of the house is not exempted development in accordance with Section 4(1)(h) of the Planning and Development Act, 2000, as it is a significant alteration to the front of the house, which is visually significant and is considered to be a material alteration as the houses in the area generally do not have bay windows to the front. The bay window in the adjacent house sought and was granted a permission under Planning Register Reference D98A/0459.

The extension to the rear extends to the side of the existing house by approximately 1.1 metres, which is also not exempted development, as it is to the side of the existing house and not to the rear.

In addition, it is considered that the extension, with a window to the rear only approximately 0.5 metres from the adjacent boundary, is also not exempt development due to its proximity to the boundary, particularly as it is largely made up of glass block.

3.0 GROUNDS OF REFERRAL

Deaton Lysaght Architects, on behalf of Ms. Rose Syms, preface the grounds of referral with some background information, stating that Ms. Syms consulted the Planning Authority several times and was not informed of the necessity to obtain planning permission for the proposed works.

With respect to the **rear extension**, the Referrer states that this single-storey extension has a floor area of 21 square metres and that the rear garden area is in excess of 25 square metres and the glass block window referred to on the side of the extension has since been blocked up. The Referrer states that Planning Authority contends that the 1.1 metre of the extension projecting to the side of the dwelling requires the benefit of planning permission, but Class 1 of Part 1 of the Planning and Development Regulations, 2001, provide for exempted development for “*the extension of a house by the construction or erection of an extension (including a conservatory) to the rear of the house...*”. It is argued that the ordinary understanding of the words “*rear of the house*” are that this would comprise of any area behind the rear building line which is defined by the rear wall of the house. Column 2 of Class 1 contains conditions and limitations on exemptions and it is nowhere stated that the rear extension is limited to being within the line of the gable wall of the house and that there is no limitation on the visibility of an extension, i.e. there is no statement that the extension should not be visible from a public road.

A series of sketches is submitted with the referral to illustrate why the extension is not, in the ordinary sense of the word, to the side of the house and the Board’s attention is also drawn to a similar case, 09.RF.1018, and to the Inspector’s Report relating to same which defined the ‘rear’ of the dwellinghouse as being to the rear of the building line. The Referrer states that

in this instance the extension to the rear is substantially behind the line of the gable wall projected into the rear garden, with only a 1.1 metre section extending beyond this line and given the orientation of the house the extension is virtually invisible from the public road. It could be argued that if a line is drawn from the rear building line of No. 7 Gledswood Close (to the west of the site) to the rear corner of No. 8 Gledswood Close, then the entirety of the extension is to the rear building line as drawn by this definition.

With reference to the **bay window extension**, it is argued that this comprises exempted development under Section 4(1)(h) of the Planning and Development Act, 2000-2002, as the works effect only the interior of the structure and do not materially effect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures. In this respect the Referrer encloses copies of photographs of houses in the area with bay windows on Nos. 9 and 3 Gledswood Close, Nos. 3, 9, 18 and 41 Gledswood Avenue and Nos. 12, 19 and 23 Gledswood Park, which feature bay windows similar to that constructed at the referral site.

4.0 RESPONSE TO REFERRAL

The Planning Authority have nothing further to add to the Planning Officer's Report of 10th February, 2005.

5.0 POINT OF REFERRAL

The works to the extension to the dwellinghouse and also to the bay window are clearly 'development' and so the question of referral before the Board is whether or not the single-storey extension and the construction of a bay window at 8 Gledswood Close constitute exempted development.

The issue of the window in the extension facing the boundary with No. 9 Gledswood Close being within 0.5 metres of said boundary and hence contrary to limitation 6(a) in Column 2 of Class 1 contained in Part 1 of Schedule 2 is not relevant as this window has been blocked up as confirmed by my site inspection.

6.0 RELEVANT LEGISLATION

Class 1 of Part 1 of Schedule 2 of the 2001 Planning and Development Regulations has been copied onto the file for the Board's attention. Section 4(1)(h) of the Planning and Development Act, 2000-2002, states that "*development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with*

the character of the structure or of neighbouring structures” is considered exempted development.

I draw the Board’s attention to **09.RF.1018**, where a similar reference was decided by the Board. In that instance a single-storey extension to the rear of the building line, but projecting beyond the line of the gable wall (i.e. to the side as defined by the Planning Authority in this instance) was considered exempted development by the Board, which determined that notwithstanding said projection the extension was to the rear of the dwellinghouse. This history file is attached for the Board’s attention.

7.0 ASSESSMENT

With respect to the **single-storey extension**, I note that this measures 23.8 square metres and that the residual garden area is in excess of 25 square metres. The extension does not exceed the height of the rear wall of the house and the proposed window less than 1 metre from the boundary wall has been blocked up. Accordingly, the extension complies with the conditions and limitations set down in Column 2 with respect to Class 1 development and the sole issue to determine is whether or not the 1.1 projection of the extension beyond the line of the gable wall projected in an easterly direction is in a zone that could be termed the ‘side’ or the ‘rear’ of the house.

Adopting a reasonable approach, I find that the phrase “*to the rear of the house*” referred to in Class 1 should be interpreted as to the rear of the building line defined by the rear wall of the dwelling, as projected in this instance in a northerly direction. The definition of the word ‘rear’ in the Cambridge and Oxford dictionaries imply that an object is to the rear when it is at the back or behind an object. In this instance the extension is behind, to the back or to the rear of the dwellinghouse as defined by its rear building line. Conversely, the Cambridge and Oxford dictionaries defining the word ‘side’ referred to something being “*next to*” or “*to left or right*” of an object. Specifically these dictionaries state that to the side does not mean to the front or back of an object and I believe that the extension in this instance is to the back or rear of the dwellinghouse, not to its side. My interpretation of an extension to the side of the dwellinghouse would be where an extension extends forward of the rear building line towards the front building line of the house and thereby occupies space to the side of the house, i.e. being built off or adjacent to the gable wall (side wall) of the dwellinghouse.

Similarly, I believe that a front extension would be an extension between the front building line of the dwellinghouse and its front boundary and would not be an extension to the rear of the front building line which would constitute a side extension or, if it extended beyond the rear building line, would constitute an extension to the rear of the dwelling. However, this issue is not before the Board for consideration and is stated merely to clarify the definition of rear and side extensions.

Regard must also be had to 09.RF.1018 where the Board in a similar situation decided that an extension to the rear building line of the dwelling that had projected beyond the extended line of the gable wall was considered to be a rear extension and was therefore exempt.

With reference to the **bay window** on the front elevation of this dwelling, I note the Referrer's comments that several other houses in both Gledswood Close and also Gledswood Avenue and Park have similar bay windows and that the extension constructed at 8 Gledswood Close does not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures. Whilst acknowledging that several dwellings in the vicinity have similar (though not identical) bay windows constructed, I would comment that these, on the balance of probability, were constructed with the benefit of planning permission and not as exempted development and so the issue of precedent for a bay window on exempted development grounds does not exist. The bay window in the adjacent house sought and was granted a permission under Planning Register Reference D98A/0459.

I would also comment that the majority of houses in the area do not have bay windows of the type constructed at No. 8 Gledswood Close and that therefore the bay window style is not the predominant architectural expression in the area and consequently the bay window does materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure and also with its neighbouring structures. Accordingly, I am of the opinion that the bay window does not constitute exempted development and therefore requires the benefit of planning permission.

8.0 CONCLUSION AND RECOMMENDATION

Having regard to the above, I consider that the single-storey extension at 8 Gledswood Close constitutes exempted development and that the bay window on the front elevation of 8 Gledswood Close does not constitute exempted development.

Accordingly, I recommend an Order in the following terms.

WHEREAS the question has arisen as to whether works involving the construction of a single storey extension and the construction of a bay window to the front elevation of 8 Gledswood Close is or is not exempted development,

AND WHEREAS the said question was referred to An Bord Pleanála by Ms. Rose Syms on 7th March, 2005,

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Section 4 of the Planning and Development Act, 2000-2002, and
- (b) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000-2002, hereby decide that the single storey extension constitutes exempted development but that the bay window does not constitute exempted development.

Bernard Dee,
Senior Planning Inspector.

11th July, 2005.

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