



Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F20A/0321

Appeal by Jennifer Morton care of CQA Design and Build of Unit B4, Swords Enterprise Park, Feltrim Road, Swords, County Dublin against the decision made on the 27th day of August, 2020 by Fingal County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: Alterations to previously approved plans under planning reference F18A/0546 and is to include two dormer windows at roof level, one hipped dormer on the side elevation and a flat roofed dormer on the rear elevation at 28 Brackenstown Avenue, Swords, County Dublin.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE condition number 3

and the reason therefor and AMEND condition number 2 so that it shall be as follows for the reason set out.

2. Prior to commencement of development, the developer shall submit revised elevational drawings, sections and floor plans detailing the following revisions for the written agreement of the planning authority:
 - (a) The width of the side dormer shall not exceed 2.5 metres and the glazed area shall not exceed one metre x one metre and the window to be permanently fitted with obscured glazing.
 - (b) The rear dormer shall be reduced in scale such that its external width is no more than 2.1 metres and its gable elevation shall not exceed a depth of three metres from the roof ridge of the main roof. The proposed window located within the dormer shall be centred.

Reason: In the interest of visual amenity and in the interest of clarity.

Reasons and Considerations

It is considered that the removal of condition number 3 would be in accordance with Section 7.8 of the Development Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2007 which states that it is inappropriate in development management to attach planning permission conditions which are the subject of more specific controls under other legislation or are directly regulated by other statutes, unless there are particular circumstances, for example, the matters are relevant to proper planning and sustainable development and there is good reason to believe that they cannot be dealt with effectively by other means. Condition number 3 requires that the attic conversion be restricted to non-residential only in the interest of compliance with the Building Regulations. It is considered inappropriate, in this instance,

to attach a condition relating to matters regulated by the Building Regulations. The proposed development would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area. The onus is on the applicant to ensure that the development proposed complies with the Building Regulations.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Maria FitzGerald
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this day of 2021