



Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F20A/0423

APPEAL by Jean Kirk care of CWPA of Unit 10, North Street Business Park, Seatown West, Swords, County Dublin against the decision made on the 21st day of October, 2020 by Fingal County Council to refuse permission to Jean Kirk.

Proposed Development Retention permission for the demolition of a shed and the construction of a new single storey detached granny flat in the rear garden, all at Crescent Road, Rush, Co. Dublin.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

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.

Reasons and Considerations

1. On the basis of the information submitted with the application and the appeal, and to the site's location in an area at risk of flooding, the Board cannot be satisfied that the proposed development and the development proposed to be retained, either individually, or in combination with other plans or projects, would not be likely to have a significant effect on the designated Rogerstown Estuary Special Protection Area (Site Code: 004015) and Rogerstown Estuary Special Area of Conservation (Site Code: 000208), Dundalk Bay Special Protection Area (Site Code: 004026) or any other European site, in view of their Conservation Objectives. In these circumstances the Board is precluded from giving further consideration to a grant of retention permission. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Objective DMS43 of the Fingal Development Plan, 2017 - 2023, requires that 'granny flats'/'family flats' be linked directly to the existing dwelling via an internal access door and do not have a separate front door. The family flat, as applied for in this application, is a detached structure, is not internally linked to the main dwelling and has its own separate front door. In addition, the separation distance between the existing dwelling and the proposed structure is such that it is not considered that it would ever be connected to the habitable floor area of the existing dwelling when the need for it has ended by the family member. The proposed development, would, therefore, contravene Objective DMS43 of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

3. The proposed development is in an area which is at risk of flooding. The Board is not satisfied, on the basis of the information submitted with the application and the appeal, that the proposed development would not give rise to a heightened risk of flooding, either on the proposed development site itself, or on other lands.

Furthermore, the Board is not satisfied that the information submitted with the application and the appeal, demonstrates compliance with 'The Planning System and Flood Risk Management Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in November 2009. The proposed development would, therefore, be prejudicial to public health, would not be in accordance with the Ministerial Guidelines and would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul Hyde

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2021.