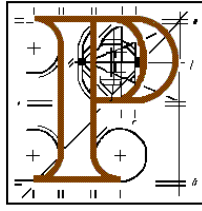


An Bord Pleanála



Inspector's Report

Appeal Reference No:	PL06F.245879
Proposed Development:	Construction of a dormer bungalow with vehicular access from St. Fintan's Grove and all associated works to rear.
Location:	'Spindrift', Strand Road, Sutton, Dublin 13
Applicants:	Stephen Ryan
PA Reg. Ref:	F15A/0348
Planning Authority:	Fingal County Council
P.A. Decision:	Grant
Appeal Type:	Third
Appellants:	Residents of St. Fintan's Grove
Observers:	Tony Stafford & S and A Carroll
Date of Site Inspection:	14 March 2016
Inspector:	Una Crosse

1.0 SITE LOCATION AND DESCRIPTION

The site comprises the rear garden of an existing property known as 'Spindriff' which addresses Strand Road in Sutton. The existing property comprises a detached dormer dwelling on a large site. The appeal site, has a stated area of 0.0613ha, is the rear garden of this property and comprises an area of ground c. 60m in length from the rear elevation of the existing house to the rear boundary of the site. The rear of the existing property incorporating the existing site is overgrown and includes a hedge which divides the site. The rear of this site backs onto the termination of the cul-sac within the estate known as St Fintan's Grove. The appeal site is at a significantly lower level than St Fintans Grove with a difference of c.1.7/1.8metres. St Fintans Grove accommodates 12 no two-storey gable fronted properties. The appeal site is adjoined to the northwest by a property known as Fingal and to the south east by a property known as Dunvegan.

2.0 PROPOSED DEVELOPMENT

The proposal provides for the construction of a dormer dwelling which is 225 sq.m in area and 7m in height with access proposed from St. Fintan's Grove. The access proposed requires the removal of an existing wall and some trees within St Fintan's Grove and the infilling of the area to the front of the proposed house to increase the existing ground level to that of St. Fintans Grove.

Additional Information

In response to the request for additional information the development the applicant responded to the four issues as follows:

- In response to a query on site levels it is stated that a recheck of site levels provides that proposal now connected to existing foul drain serving Spindriff as the FFI of 10.55m OD would make connection to manhole in St Fintans Grove problematic. The ground level of the proposal is lowered such that the proposed ground floor level at front of proposed house is now 10.4. Revised drawing provided. Revised drawings were also provided outlining the storage areas within the unit which accord with requirements.

3.0 PLANNING HISTORY

On site

FS97/15/036m - Certificate of Exemption granted under Part 5.

Adjacent Sites

F10A/0508 (PL06F.239467) – Permission granted on appeal for the demolition of the existing house and replacement with a new two-storey house together with two new detached two-storey houses to rear, alterations to the entrance gates, access roads, outbuildings and associated site development at Santane, Strand Road, Sutton

F08A/0064 – Permission refused for a dwelling to rear of dwelling at 5 LA Vista Avenue, Sutton

F06A/0885 – Permission refused for a new dwelling to the front of an existing dwelling at Neaptide, Strand Road, Sutton

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The Planners report notes policy RD10 referring to the use of underutilised sites and considers proposal is acceptable in principle. Private amenity space proposed for the proposal and retained for the existing house is considered acceptable. The storage area was not considered sufficient in the original proposal. In response to further information the applicants provided additional storage which was considered acceptable. Views from Strand Road were considered to be limited or non-existent. Introduction of a dormer dwelling into the St Fintans Grove setting not considered to adversely impact with the setback reducing any impact. The changes in levels between the site and St Fintans Grove was considered to require clarification. The response to further information revised the connection to the foul sewer with the applicant now proposing to connect to the existing foul drain on site given level differences.

The maximum height of first floor rooms at 2.4 metres is considered appropriate. Loss of trees is not considered contrary to objective LC08 and not considered a significant adverse impact on character of the area. A visual impact assessment in accordance with objective LC07 is not considered necessary as the site is not highly sensitive. The proposal is not considered to impact on the character of the Howth SAAO. First floor windows will not impact on residential amenity of properties given set back and angles within St Fintans Grove and length of rear gardens either side of the site. Construction impacts can be minimised with limited construction hours. The matter of appropriate assessment screening was raised and clarification was considered necessary. In response to the further information received the PA considered that no direct or indirect impacts on the North Bull Island SPA or North Dublin Bay SAC. Clarification was also considered necessary regarding legal ownership of the boundary. The response to further information received was considered acceptable.

Technical reports received from Water Services Section – no objection with conditions, Roads and Traffic – no objection with conditions; Irish Water – no objection with conditions; Parks – no objection with condition requiring financial contribution for Objective OS03 – open space; The Heritage Officer notes no reference made to proximity of site to North Bull Island SPA and North Dublin Bay SAC with potential impact not considered with potential impacts required to be addressed enabling PA to screen for AA. In response to the FI it was concluded that no direct or indirect impacts would be likely.

Nine submissions received with the issues raised similar to those in the grounds of appeal below;

4.2 Planning Authority Decision

Permission granted subject to 10 conditions all of which are standard with Condition 10 requiring a financial contribution of €17,131.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- St Fintan's Grove offers residents high degree of amenity with privacy and tranquillity;
- Proposal should have had a Natura 2000 Impact Screening Report given sensitive location of the site within SAAO and close to SAC/SPA;
- Response to Item 1 of Further information provided by applicant was not a NIS screening report and was not carried out by an appropriately qualified professional and was not in accordance with Objective DB06
- The assessment does not accord with Appropriate Assessment of Plans and Projects in Ireland (2009);
- Absence of such a report warrants a refusal and request at very least that the Board request an NIS screening report;
- Dormer design contrasts and is not in keeping with the two-storey design of existing houses in St Fintan's Grove;
- Any dwelling at this location should achieve the highest architectural design and quality to provide an acceptable alternative to the existing;
- Proposed gateway and access is much larger and splayed and unlike those of the neighbouring properties detracting from same;
- Discrepancy in drawings regarding size (Double/single) of bedrooms and occupancy level between submission and further information;
- Utility room originally proposed amended to storage room measuring 5.12sq.m, which does not comply with Table RD01 where storage rooms cannot exceed 3.5sq.m;
- Designated view along Strand Road to the south of the site which requires protection and assessment of visual impact with no visual impact assessment submitted with proposal negatively impacting on the preserved view contravening Objective VP01 and VP02;
- Planning Authority's statement that proposal would not detract significantly from the residential amenity seems to be an admission of some measure of impact;
- Proposal would result in loss of visitor parking and removal of wall and tress would negatively impact on the established look and ambience;
- Increased traffic will impact on peace and tranquil amenity with safe access and egress from properties 7 & 8 a concern given angle of existing access and obscured sightlines due to vegetation;
- Proposed entrance splay different to those of existing houses with residents requiring if permission granted that condition attached requiring it is more in keeping with the existing;
- Extensive damage caused by flooding in St Fintans Grove in 2014 due to overflowing drains leading to a collapsed wall at No. 7 with proposal potentially exacerbating problem;

- Proposal may set unwanted precedent for backland/infill development with potential for negative impact on property values;
- Removal of trees and vegetation on site results in loss of natural habitat with no tree survey prepared;
- No construction management plan submitted with concerns regarding noise and dust and unauthorised parking;
- Wall inside the boundary wall onto St. Fintans Grove which forms boundary with applicant stating they own external wall but not registered with land registry search highlighting boundary wall part owned by another party with applicant potentially not having legal ability to implement the proposal;
- Notwithstanding Section 34(13) of the PDA inappropriate to grant permission if it cannot be implemented;

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The response is summarised as follows:

- PA and Heritage Officer remain of the opinion that proposal will not have any direct or indirect impact;
- While proposal does differ to design of existing houses it is an appropriate form of infill development and is setback;
- Bedrooms whether called single or double are in excess of 14sq.m and of sufficient size to meet requirements set out in Table RD03;
- Ample storage is provided although not strictly in accordance with Table RD01;
- Proposal is not considered highly sensitive and a visual impact assessment was not deemed necessary;
- Proposal will not impact on residential amenity by way of overlooking or overshadowing and vehicular movements would not have an adverse impact;
- Construction management plan not considered warranted for the size of development;
- Ample visitor parking within the area and no issues raised by Transportation regarding conflict of movements;
- Trees retained elsewhere on the site with additional planting proposed;
- Applicant's solicitor provided PA with Official Property Registration Map which shows registered boundary at point where St Fintans Grove begins. Request condition 10 is upheld by the Board;

6.2 Observations

Two observations were received which are summarised as follows:

- Developer of St Fintans Grove sought to maintain the integrity of the cul-de-sac in perpetuity and positioned concrete wall some distance from the end of the applicants back garden boundary;
- Ownership of the buffer strip probably held in common ownership by the residents and inappropriate to permit the proposal;

- Strip of land shown on Registry map for No. 5 which is attached;
- No evidence that the strip of land for access is in applicants ownership;
- Proposal inappropriate given impact on character and pattern of development already on Strand Road;
- Drawings submitted do not comply with a list of considerations set out;
- No information provided in the application on the trees, no appropriate assessment and no flood risk assessment;
- Proposal fails to integrate with the existing dwellings in the area and would significantly impact the residential amenity of adjoining property;
- Impact on property to the east of the appeal site by way of impact on residential amenity and principle of backland development;
- Objective RD10 seeks to encourage infill, RD12 seeks to protect area with unique character with the proposal failing to respect character of the area;
- Given level difference between appeal site and site to the east cross sections should have been provided;
- Level difference will create issues such as overlooking, overbearing effect and enjoyment of private open space;
- Extreme form of development proposed given environmental quality of these backland areas;
- Proposal is piecemeal without any masterplan;
- Two reasons for refusal suggested relating to impact on residential and visual amenities;

6.3 First party response

A response to the appeal was provided and is summarised as follows:

- History files mentioned by appellant are not comparable with Ref. F10A/0508 providing support for the proposal c.150m south on Strand Road;
- No impact on SAAO given context of area;
- No direct or indirect impacts on the Natura 2000 sites likely with no specific potential environmental issues raised by the appellant;
- Contention that house not appropriate as not two-storey is unreasonable as proposal is low profile with no overlooking to rear;
- Replacement and additional screening will further mitigate;
- Photomontage attached of how proposal will present on the site within its context;
- Splay proposed is not excessive given wider frontage of the site;
- Question of storage within the property can be rectified with minor internal alteration;
- Proposal will not be visible from the coastline nor will it impinge or obstruct listed views;
- Proposal will present a far better appearance to the cul-de-sac than exists;
- Good parking for visitors remains within the estate;
- Only trees to be removed are along the road boundary and a fruit tree not visible from St Fintans Grove;

- Increased traffic will not be significant nor will it detract from residential amenity;
- Not aware of any flooding or excess water flowing on to this property with compliance proposed with SUDS directive such as permeable paving;
- Concerns regarding impact on property values not supported by any evidence;
- Bio-diversity on the site is low and given absence of any trees of significance there was no need for a tree survey;
- Hours of construction are controlled by condition;
- Question of legal entitlement was addressed in the additional information response with the property extending out to the cul-de-sad with no legal claim to the contrary and no objection from the Council;

7.0 POLICY CONTEXT

The site is zoned RS in the current Fingal County Development Plan 2011-2017 the objective of which is to *'provide for residential development and protect and improve residential amenity'*. The site is also located within the area designated as the Howth Special Amenity Area Order and is designated as a 'Special Amenity Area Buffer Zone.

Objective RD10 -Encourage and promote the development of underutilised infill and backland sites in existing residential areas subject to the character of the area being protected.

Objective RD11 - Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Objective OS35, 36 and 37 – private open space

Objective VP01 - Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

Objective VP02 - Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks and large agricultural/horticulture units which would interfere with a view or prospect of special amenity value, which it is necessary to preserve.

Objective LC07 - Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.

Objective BD27 - Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character and ensure that proper provision is made for their protection and management.

8.0 ASSESSMENT

The main issues arising are as follows:

- Principle of Proposal
- Precedent
- Legal Interest to Carry out Development

- Design of Proposal
- Internal Configuration of Dwelling
- Visual Impact
- Residential Amenity
- Traffic and Access
- Flooding
- Other Matters
- Appropriate Assessment

8.1 Principle of Proposal

The proposal provides for the development of a residential property on lands zoned for residential use. Subject to the other planning and environmental considerations outlined in the following sections I consider that the proposal is acceptable in principle.

8.2 Precedent

The appellants are concerned that permitting this proposal would create a precedent for further similar development. I would note that this site is uniquely poised with an access into St Fintans Grove unlike any other property in the vicinity along Strand Road. I would also note that this proposal and every other proposal which may or may not materialise would be considered on their own merits.

8.3 Legal Interest to Carry out Development

The appellant and observer contend that the applicant does not have sufficient legal interest to carry out the development as the boundary wall onto St Fintans Grove is part owned by another party with the applicant potentially not having legal ability to implement the proposal. In response the applicant's agent states that the matter was addressed in response to the further information request by the Planning Authority. At Appendix 3 of the submission the Official Property Registration Map shows the registered boundary at the point where St Fintan's Grove ends. I consider that the applicant has provided the necessary evidence to demonstrate sufficient legal interest. I do not consider that the information provided by the appellant or observer is sufficient to negate this consideration. Notwithstanding, if the Board are minded to grant permission a note should be included referring to Section 34(13) of the PDA as amended.

8.4 Design of Proposal

The appellants concerns in respect of the design relate to the proposed dormer design contrasting with the two-storey design of existing houses in St Fintan's Grove. They state that it would not be in keeping with the design of the existing properties. I do not agree with the contention put forward in relation to the design. I do not consider that it would be reasonable to state that it would be out of keeping. The existing estate while relatively uniform is not an architectural set piece and therefore can effectively absorb a slightly

different type of house design. The appellant's requirement that any dwelling at this location should achieve the highest architectural design and quality to provide an acceptable alternative to the existing appears a little overstated. I consider the proposed design is an acceptable addition to the area.

8.5 Internal Configuration of Dwelling

The matter of room size and naming of rooms within the house was considered at additional information stage. The appellants now state that there is a discrepancy in drawings regarding the size (Double/single) of bedrooms and occupancy level between submission and further information. The Planning Authority in their response to the appeal state that the bedrooms despite whether single or double are in excess of 14sq.m and of sufficient size to meet requirements set out in Table RD03. I consider this addresses the matter. In relation to the utility, the utility room originally proposed was amended to storage room measuring 5.12sq, which does not comply with Table RD01 where storage rooms cannot exceed 3.5sq.m. The matter of an excess of 1.62 sq.m of storage within the unit can in my opinion be rectified by way of a revised layout if considered necessary by the Board, however I would consider that extra storage within a house would not impact on the amenity of the occupants.

8.6 Visual Impact

The appellants refer to the designated view along Strand Road to the south of the site which requires protection and assessment of visual impact. They state that no visual impact assessment was submitted with the proposal thereby negatively impacting on the preserved view and contravening Objective VP01 and VP02. While the proposal would create an additional roofline within the area when viewed along Strand Road, I do not consider that there would be any visual impact on the preserved view given the visual envelope of other roof profiles. The proposal would in my opinion, make no discernible visual impact on the area. The trees and vegetation on site which it is proposed to remove are not of such visual or ecological value as to negatively impact on the established look and ambience of the area. Finally, in my opinion the appellants concerns that the proposed gateway and access is larger and the splay is unlike those of the neighbouring properties are unfounded. They would not be so detrimental such that it would detract from the visual amenity of the area. As I note elsewhere this area is not provided with any conservation status and therefore its architectural integrity is not a paramount consideration in respect of visual amenity.

8.7 Residential Amenity

I do not consider that the proposal would undermine the residential amenity of properties located on St Fintans Grove nor on the property known as Dunvegan on Strand Road. There are no windows proposed on either of the side elevations. The windows at first level on the rear elevation are velux rooflights with no overlooking possible. The dormer windows on the front of the property do not directly oppose any existing first floor windows. Reference to the level difference creating issues such as overlooking, overbearing effect

and undermining the enjoyment of private open space are all unfounded in my opinion. There is more than sufficient distance between the proposed development and all existing properties including the existing property known as Spindrift to protect the amenity of all concerned.

While I acknowledge the concerns the residents may have about the impact a building site would have on their amenity, the proposal is not of such a scale as would warrant the preparation of a construction management plan notwithstanding, concerns regarding noise and dust and unauthorised parking. The development is of a scale which can be absorbed into the existing residential context both during and post construction.

8.8 Traffic and Access

In my opinion, the access arrangements proposed and the small scale of traffic associated with a single property would not create any issue with regard to traffic safety or the capacity of the road network. I do not agree that the proposal would result in loss of visitor parking as there is ample areas within the estate to park. The creation of an entrance as proposed would not detrimentally affect the ability of the estate to absorb additional parking from occasional visitors. The addition of traffic associated with an additional house will not impact significantly on the amenity of other properties in the estate. The scale of additional traffic would not be of a scale to create any noticeable impact. Reference to vegetation obscuring sightlines for a nearby property is not considered relevant given that the vegetation is located within the owners own property and can be removed by the owner themselves. I do not consider that access and egress from properties 7 & 8 in St Fintans Grove would be impeded by the proposed access.

8.9 Flooding

The appellants refer to the extensive damage caused by flooding in St Fintans Grove in 2014 due to overflowing drains leading to a collapsed wall at No. 7 with proposal potentially exacerbating problem with an observer noting that no flood risk assessment was carried out. In response the applicants agent states that they are not aware of any flooding or excess water flowing on to this property with compliance proposed with SUDS directive such as permeable paving. From my review of the 2014 event, I do not consider that the proposed development would exacerbate this problem.

8.10 Other Matters

8.10.1 Removal of Trees

While there is concern regarding the removal of trees and vegetation on the site which it is believed would result in the loss of natural habitat with no tree survey prepared, from my visit to the site I do not consider that the trees and vegetation proposed to be removed would negatively impact on the local ecosystem.

8.10.2 Procedural Issues

I would note one of the observers agents sets out a series of what they consider to be procedural matters. These relate to the planning drawings and the absence of appropriately annotated OD levels and a land survey and contiguous elevations. I would note that these matters were raised with the Planning Authority who validated the material and I consider that the appeal can be appropriately considered by the Board without recourse to same.

8.11 Appropriate Assessment

In respect of this development, the concerns expressed by the appellants in respect of the proximity of the proposal to the nearby designated sites is noted as are the concerns as to the absence of screening within the application documentation. The site is located approximately 100m from the North Bull Island SPA and the North Dublin Bay SAC with Howth Head SAC located to the west and south west of the site. Having regard to the scale of the proposal within the site of and to the rear of an existing residential development and surrounded by existing residential development provided with public services, no appropriate assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

9.0 RECOMMENDATION

The proposal seeks to develop an additional unit on an existing residential site with access proposed through the rear of the overall site into an existing residential development. I consider that the proposal is a sustainable use of accessible urban land. I recommend that the development should be granted.

REASONS AND CONSIDERATIONS

Having regard to the land use zoning objective for the site, as set out in the current Development Plan for the area, the pattern of existing development on the site and in the vicinity, the design of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, would not detract from the visual amenity of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings received by the planning authority on the 22 day of October, 2015, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of the connection to the public sewerage system shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of public health and to ensure a proper standard of development.

3. All service cables associated with the proposed development (such as electrical, communal television, telephone and lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

4. Construction works shall be restricted to between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No works shall take place outside these hours or on Sundays or Bank or Public Holidays.

Reason: In the interest of residential amenity.

5 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Note: Section 34(13) of the Planning and Development Act 2000, as amended, states “*A person shall not be entitled solely by reason of a permission under this section to carry out any development*”.

Una Crosse
Senior Planning Inspector
Date: