

An Bord Pleanála



Inspector's Report

PL 06F/246258

DEVELOPMENT:-	Conversion of detached garage to two bed residential unit 89 Drumnigh Wood, Portmarnock, Co.Dublin.
Planning Authority:	Fingal County Council
Planning Authority Reg. No:	F15A/0578
Applicant:	Jason Bonney
Application Type:	Permission
Planning Authority Decision:	Refuse Permission
Appellant:	Jason Bonney
Type of Appeal:	First Party –v- Refusal
Observers:	None
Date of Site Inspection:	03 May 2016
INSPECTOR:	Patricia Calleary

1.0 INTRODUCTION

PL 06F/246258 relates to a first party appeal against the decision of Fingal County Council to **refuse permission** for the conversion of an existing detached single storey garage to a two bedroom residential unit at 89 Drumnigh Wood, Portmarnock, Co.Dublin.

2.0 SITE LOCATION AND DESCRIPTION

The appeal site, with a stated area of 0.082 ha is within the curtilage of an existing 2 storey detached dwelling house site within an established housing development (Drumnigh Wood), located south west of Portmarnock village. The site contains a single storey domestic garage positioned east of the applicant's home and it abuts the neighbouring site boundary to its east. The garage is located behind the rear of the original building line of the neighbouring houses along the residential estate road. Access is directly off the end of the estate road and this road connects onwards through the estate to the R124 located east of the development. The site is open to the front, bounded to the rear by mature trees and solid panel screening, c.1.8m in height. There is an open field behind the rear boundary. The garage is currently laid out internally as an open plan space with a smaller room located along the east wall. There were household items stored in the garage on the day of my inspection. There was also construction works underway on the main dwelling house.

3.0 PROPOSED DEVELOPMENT

- This proposed development would consist of the conversion of an existing single storey domestic garage to a 2 bedroom residential unit.
- Works proposed include the addition of a velux window to the eastern roof slope and the replacement of a roller door at the front with an entrance door as well as internal changes to form a porch, living room/kitchen, 2 bedrooms, a bathroom and hot press.
- It is stated that the proposed development is intended as a home for the applicant's young daughter and her 18 month old son. It is also stated that while she is eligible for social housing support she will not be provided with a house in the near future with an

indicated timeline of 8 years wait. The proposed development is stated as being intended to assist her accommodation needs as an alternative to renting elsewhere.

4.0 PLANNING HISTORY

F15A/0056 – on appeal site (garage) and applicant’s house.

Permission was **granted** on 11 May 2015 for a 1.5 storey high extension to the side of the applicant’s existing house on site, an extension to the conservatory to the rear, a first floor extension above the conservatory and conversion of the existing garage into a home gym with bathroom and shower and all associated works.

The following conditions of relevance were attached to the grant of permission.

- Condition No.2: That the entire premises be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations

Reason: To prevent unauthorised development.

- Condition No.3: The converted garage shall be used solely for use incidental to the enjoyment of the dwelling house and shall not be sold, rented or leased independently of the house and shall not be used for the carrying out of any trade or business.

Reason: In the interest of the proper planning and sustainable development of the area.

F04A/1089 - Phase 3 of Drimnagh Woods Development consisting of 91 no. houses. Permission was granted by Fingal County Council on 25 February 2005.

5.0 PLANNING AUTHORITY DECISION

5.1 Planning officer’s report

The following provides a summary of the planning officer’s assessment.

- Site is located within an area zoned ‘**RS**’ (**To provide for residential development and protect and improve residential**

amenity) in the Fingal Development Plan 2011-2017 – Proposed development is acceptable in terms of zoning objective.

- Proposal would result in a dwelling located behind the established building line of the neighbouring two-storey dwellings which is inconsistent with the development of the area.
- Development would be out of character with the established dwelling types and would constitute over-development of the site.
- Proposal complies with majority of design standards for dwellings in the Fingal Development Plan 2011-2017, it does not provide adequate internal storage stating a minimum of 3.5 sq.m is required under Objective RD07 and Table RD01 of the Fingal County Development Plan. (Considers 1.6 sq.m storage space proposed).
- Notes DDAs requirements on noise levels of the site and details of mitigation measures, none of which are provided with the application.
- Application has not sufficiently addressed the requirement for 2 parking spaces on the site and on the parent home site.
- Notes 7 no. submissions in support of the development.
- Concludes that proposed development is not acceptable and would detract from the residential character of the area.

A recommendation to **refuse permission** issued.

5.2 Submissions/Observations

The Planning Authority received 7 no. submissions from third parties in support of the development from 4 neighbouring house occupants/owners and 3 elected members. There were no objections to the development from third parties.

5.3 Interdepartmental reports

Water Services

- No objection

Transportation Department

- No response

5.4 Prescribed Bodies

Irish Water

- No objection

DAA

- No objection subject to conditions

- Requires assessment of existing and predicted noise environment of the site and that applicant should demonstrate that internal noise levels appropriate for noise-sensitive rooms can be achieved and maintained.
- Appropriate noise mitigation to be implemented in the event of a grant of permission.

5.5 Planning Authority Decision

The Planning Authority issued a decision to **refuse permission** for 2 stated reasons summarised as follows:

1. Design, form and position on site relative to the front building line of the existing and neighbouring houses would be out of character with the pattern of development in the immediate area and would amount to visual incongruous backland form of residential development.
2. Proposed development does not meet the minimum standards for the provision of open storage space as set out in the Fingal Development Plan 2011-2017.

6.0 GROUNDS OF APPEAL

6.1 First Party Appeal

A first party appeal was lodged by James Briscoe as agent on behalf of the applicant.

The principal grounds of his appeal are summarised as follows:

- Overall development displays a disjointed building line with setbacks for both houses and garages.
- Location of existing garage relative to the house is unique within the development with adequate lands to the front and rear.
- Setback position ensures minimal impact will result.
- Separate vehicular access available to the garage and house.
- Existing garage has been approved under Planning Ref F15A/0056 and is similarly located to all other garages in the estate.
- Refers to Objectives **RD01, RD04, RD05 and RD10** of the Fingal County Development Plan which support the development.
- Site is located in an area zoned '**RS**'.

- Proposed development is generally within the densities for the area as laid out in **Table RD01, RD02 and RD03** apart from storage space on ground floor. Attic space is floored and accessible by loft ladder and can provide storage of in excess of 10 sq.m.
- Proposal is an ideal solution to provide affordable housing to the young and also in the future to provide sheltered accommodation for the elderly.
- Assertion in the Planning decision that the development would depreciate the value of property is negated by the fact that neighbours support the development.

7.0 APPEAL RESPONSES

7.1 Planning Authority Response

- Proposal was assessed having regard to the development plan zoning objective and the impact the development would have on the character of the area.
- Proposal would be seriously out of character with the established type, form and pattern of dwellings in the immediate vicinity which consist of detached and semi-detached dwelling houses on self-contained sites with garages located to the rear.
- Shortfall of storage space is now proposed to be met within the attic space which would require revised floor plans, elevations and sections. In principle, use of attic space in conjunction with ground floor storage area is acceptable.

7.2 First Party Response to Planning Authority Response

- Refers to recent grant of permission (F15A/0056)
- Unlikely that the development would set a precedent as it is the only house in the estate with sufficient lands to meet the requirements of the development plan.
- Other garages in estate are either single or double and would not meet minimum size for even a 1 bedroom unit.
- Garage is proposed to be incorporated within the confines of the structure of the dwelling.
- Proposal would not alter the pattern of development as garage would remain in original position.

7.3 Observations

None

8.0 POLICY CONTEXT

8.1 Local Planning Policy

The proposed development is governed by the policies and provisions contained in the Fingal County Development Plan 2011-2017.

- **Zoning objective 'RS'** is to 'provide for residential development and protect and improve residential amenity'. The vision is to ensure that any new development in existing residential areas has a minimal impact on existing amenity.
- **Objectives EE51** (strictly control inappropriate development and require noise insulation where appropriate), **EE57** (promote appropriate land use patterns in the vicinity of flight paths), **EE58** (Implement Government Policy on Public Safety Zones for Dublin Airport).
- **Table RD01 and RD03** - sets out the unit and room sizes required for houses.
- **Objective RD01 - RD10** are referred to.
- **Objective RD25 – Ensure Family Flats:**
 - Are linked directly to the existing dwelling via an internal access door;
 - Are subordinate to the main dwelling;
 - Have external doors to the side and rear of the house, with the presumption against an independent front door
 - When no longer required for the identified family member, are incorporated as part of the main unit on site
 - Do not exceed 60 sq m in floor area.

Note: Copies of objectives referred to above are included in the appendix which accompanies this report.

9.0 ASSESSMENT

I have read and considered the contents of the planning application, grounds of appeal, responses and relevant planning policy. I have also attended the site and environs. The following assessment covers my considerations on the key planning issues and also encapsulates my *de*

novo consideration of the application. I consider the key issues in determining the application and appeal before the Board are as follows:

- Principle of development.
- Compliance with 'Family Flat' Planning Policy
- Planning History – **New Issue**
- Backland Development
- Design Standards
- Other

9.1 Principle of Development

The site is located within an area which is zoned as '**RS** - *provide for residential development and protect and improve residential amenity*'. The vision for this objective is to '*ensure that any new development in existing residential areas has a minimal impact on existing amenity.*'

Based on the planning policy and applicable residential objectives, I am satisfied that the proposed development for a residential unit on residential zoned lands is acceptable in principle. However, the site which contains a house and associated domestic garage has already provided for residential development. I note that what is now proposed is to effectively change the use of the garage so as to generate a new residential unit within this site. Notwithstanding the suitable zoning objective, my assessment also considers relevant planning issues listed above and dealt with under each of the respective heading in the following section of my report.

9.2 Compliance with 'Family Flat' Planning Policy

The proposed development would result in a residential unit adjacent to the existing dwelling house. The appeal site is shown to include the garage unit and a part of the existing garden space which is marked off within the redline boundary. The grounds of the appeal state that it would be an ideal solution for Fingal County Council to 'provide affordable housing for the young and sheltered accommodation for the elderly'. The applicant goes on to state that the residential unit would be '*incorporated into the confines of the structure of the dwelling.*' I consider that the policy on 'Family Flats' within Fingal Development Plan is relevant. Family flats are recognised in the plan as a way of providing additional accommodation with a level of independence and are generally considered favourably subject to criteria set out in **Objective RD25**.

Included in the criteria are that a family flat would be linked directly to the existing dwelling via an internal access door and that where the 'flat' is no longer required that it could be incorporated back as part of the main house. The existing detached garage is clearly a structure which is independent of the dwelling house with its own front door and independent access and outlined as a separate site on the site layout plan and site location map which accompanies the application. The residential unit in this case would not be linked directly to the existing house and cannot readily be incorporated into the main house should it no longer be required. Accordingly, the residential unit does not fit with the requirements of Objective RD25 which set out specific criteria for family flats within the development plan and I consider this is a reason for refusal.

I note that this issue was not raised by the Planning Authority and the Board might consider that this could potentially be a new issue.

9.3 Planning History – New Issue

The applicant states that *'the garage is existing and has been approved under a planning permission Plan Ref F15A/0056'*. Having examined the specific planning permission and file referred to, I do not agree. The permission does not permit/approve the garage but rather for extension works to the main house and of note, for **the conversion of the existing garage** into a home gym with bathroom and shower and all associated works.

A copy of this grant of permission is included in the history file insert folder with this appeal. The site boundary outlined the entire site which included the main house and garage. Condition No.2 attached to that grant of permission required that ***'The entire premises be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations'***. Condition No.3 required that ***'The converted garage shall be used solely for use incidental to the enjoyment of the dwelling house and shall not be sold, rented or leased independently of the house and shall not be used for the carrying out of any trade or business'***. These conditions require the dwelling house and garage to function as one dwelling unit, if the planning permission is implemented in its entirety, that is.

For clarity, I mention that the works on the main house were under construction on the date of my inspection which appeared to be works approved under *F15A/005*. No works had been carried out to the garage.

The proposal in this current application is to effectively sub-divide the parent site and to convert the garage on site to a new residential unit. Based on the public notice which sets out the nature and extent of the development, I do not consider that Ref *F15A/0056* is related or relevant to the current application and appeal now before the Board.

What is relevant, having regard to the public notice description on this application which relates to a garage conversion, is the parent application (*F04A/1089*) which authorised the garage originally.

Having reviewed that application, I note that the garage was shown as significantly smaller on the site layout submitted under its relevant permission (***F04A/1089***) than that which is constructed on site. The floor area was shown as c.35 sq.m and had a different design than that which is constructed on site. The proposal now before the board is to convert a larger and different garage constructed on site to a residential unit. It is stated as being 60 sq.m on the planning application form.

If the garage on site is unauthorised, then the board might be precluded from granting permission as to do so might facilitate an unauthorised development. However, I concede that a deeper planning search would be required to firmly establish whether or not the garage is unauthorised.

Having regard to the substantive reasons for refusal I do not recommend that the Board need to pursue this matter further.

9.4 Backland Development

The pattern of development in the immediate adjoining area consists of established detached and semi-detached houses with single storey garages to the rear of the sites, laid out in a planned form. The conversion of one of those garages located within the back garden of an established house to a dwelling house would be out of character and inconsistent with the established pattern of development and would result in inappropriate backland development. I do not agree with the first party that the development would accord with Objective RD10 as I do not consider the parent site is underutilised infill or backland site. The creation of an independent living unit would seriously injure the amenities of adjacent properties by reason of un-coordinated disorderly development which would also have the potential to set an undesirable precedent for future such developments. I consider that the

development should be refused on the basis of disorderly backland development.

9.5 Design Standards

The Planning Officer highlighted that the development falls short of the minimum space required for ground floor storage in which it was estimated that the shortfall is c.1.9 sq.m. I am satisfied, given the hot press is a generous size (2.5 sq.m) and the stated availability of a floored attic space of c.10 sq.m that this would be acceptable in meeting the required 3.5 sq.m storage place set out in **Table RD01** for a 2 bedroom house.

I note that the floor to ceiling height is 2.45m which is considered acceptable for a house.

I note the site layout drawing presents a new undefined boundary between the existing house and garage which would in theory result in private open space being offered to the side and rear of the new residential unit.

Overall I am satisfied that the design standards within the Fingal Development Plan 2011-2017 can be met and the development should not be refused for this reason.

9.6 Other

Other Specific Objectives

The appellant refers to other specific objectives in support of his appeal. These include RD01, a broad objective to ensure consolidated development by facilitating residential development, which I have taken into account in my overall assessment of this case. References are also made to Objectives RD04 and RD05 which relate to the provision of a suitable mix of housing types in designing **new residential areas**. I do not consider these are relevant to the subject conversion of a garage to form one additional house on an existing house site.

DDA Requirements

The proposed development is located within the Outer Airport Noise Zone and the Outer Public Safety Zone. The DDA requested that in the

event of a grant of planning permission that existing and predicted noise environment of the site be assessed and that applicant should demonstrate that internal noise levels appropriate for noise-sensitive rooms can be achieved and maintained. The DDA also requested that appropriate noise mitigation measures would be implemented in the event of a grant of permission. Should the Board be minded to grant planning permission, I recommend that a condition should attach to require the submission of a noise assessment to the Planning Authority together with mitigation measures and implementation proposals prior to commencement of the development.

Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 CONCLUSIONS AND RECOMMENDATION

Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made in connection with the appeal and including my site inspection, I recommend that **permission be refused** in accordance with the following draft order.

REASONS AND CONSIDERATIONS

1. The pattern of development in the immediate adjoining area consists of established 2 storey form detached and semi-detached houses with ancillary single storey garages located to the rear of the sites. The conversion of one of those garages to a residential unit would be out of character and inconsistent with the pattern of development in the immediate area and would result in a residential unit inappropriately positioned on a backland site which would seriously injure the amenities of property in the vicinity and accordingly would be contrary to the proper planning and sustainable development of the area.

2. The proposed development comprising the conversion of a detached single storey garage to use as a residential unit would by reason of its self-contained design, independent access arrangements and lack of physical connection to the existing dwelling on site fail to comply with the requirements of Objective RD25 of the Fingal County Development Plan 2011-2017. This objective is considered to be reasonable. The structure would, as a consequence, result in the creation of an independent residential unit on this site which would lie contrary to stated planning policy and objectives in relation to 'Family Flats' and would set an undesirable precedent for similar development on residentially zoned lands. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Patricia Calleary
Senior Planning Inspector

10 May 2016

Appendix:

Location Maps, photographs, Extracts from planning policy