



An
Bord
Pleanála

Inspector's Report PL06F.246918

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| Development | Alterations to previously approved single storey house (Reg. Ref. F15A/0315) to increase the finished floor level by 730mm to address flood risk and facilitate drainage |
| Location | "Errill", 38 Howth Road, Dublin 13 |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | F16A/0192 |
| Applicant(s) | Susan & John Kelly |
| Type of Appeal | First Party |
| Planning Authority Decision | REFUSE |
| Appellant(s) | Susan & John Kelly |
| Observer(s) | None |
| Date of Site Inspection | 5 th October 2016 |
| Inspector | Niall Haverty |

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.1975 ha and is located on the northern side of Howth Road, Sutton, Dublin 13. The site comprises an existing single storey detached house and undeveloped land. The site is rectangular and extends c. 68m to the rear of the existing house. A timber fence has been erected to separate the existing house and the site for the permitted single storey detached house.
- 1.2. There is an established pattern of backland development in the area, and the two adjacent properties to the west have infill detached houses to the rear, as does the property adjoining the appeal site to the east. The site is bounded by these houses to the east and west, by Howth Road to the south and by lands associated with Sutton Golf Club lands to the north. The Howth railway line runs in an east-west direction c. 25m to the north of the appeal site.
- 1.3. The houses on the northern side of the Howth Road in the vicinity of the appeal site are primarily single storey and dormer detached houses, dating from the early to mid-20th century and most feature mature gardens and trees. The more recent backland development in the area also generally comprises single storey or dormer detached houses.

2.0 Proposed Development

- 2.1. The proposed development consists of alterations to a previously permitted single storey dwelling (Reg. Ref. F15A/0315) to increase the finished floor level by 730mm. This would entail raising the ground level at the location of the permitted house from 2.5m to 3.23m above Ordnance Datum (AOD Malin). The finished floor level of the house would be 150mm above the raised ground level, at a level of 3.38m. The ridge level would similarly increase from 9.035m to 9.765m. The stated reason for raising the level of the permitted house is to address flood risk and to facilitate drainage.

2.2. With the exception of the proposed level change, no changes to the design of the permitted house design are proposed.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Fingal County Council decided to refuse planning permission on the basis that the proposed increase in finished floor level and associated increase in ridge height would render the development out of keeping with the character of the area, would seriously injure the amenities of properties in the vicinity and was not required to mitigate against flood risk.

3.2. **Planning Authority Reports**

3.2.1. The report of the area planner can be summarised as follows:

- Development complies with zoning objective.
- Development would result in ridge height that is significantly higher than house to front of site and adjoining properties.
- Development would be incongruous and out of keeping with character of backlands development in the area. This would be contrary to Objective RD10.
- Area is not identified as being at risk from flooding. FFL does not need to be raised for flooding.
- Increasing the FFL to avoid pumped drainage is not warranted in light of adverse impact on visual amenity of the surrounding area.

3.3. **Other Technical Reports**

- 3.3.1. **Irish Water:** No objection subject to Conditions.
- 3.3.2. **Water Services:** Report states no objection subject to Conditions. Subsequent email from Water Services Engineer to Planning Officer states that there will be no flooding in this area in the 1:1,000 year coastal event based on latest OPW flood maps dated February 2015. Finished floor level is not required to be raised for flooding.
- 3.3.3. **Transportation:** No objection.
- 3.3.4. **Parks:** Number of trees on site worthy of protection. Applicant to agree tree protection measures and lodge tree bond.

3.4. **Third Party Observations**

- 3.4.1. Four third party Observations were made, the contents of which were generally as per the Observations on the appeal.

4.0 **Planning History**

4.1. **Subject Site**

- 4.1.1. **Reg. Ref. F15A/0315:** Permission granted for demolition of a garage and construction of a detached house (168 sq m). House was reduced from part dormer, part two storey to single storey on foot of request for additional information. Condition 3 required finished floor level to be 0.15m above existing ground level as area was not considered to be at risk from flooding. Condition 7 related to retention and protection of hedgerows and trees at site boundaries.

4.2. **Neighbouring Sites**

- 4.2.1. **ABP Ref. PL06F.246598; Reg. Ref. F15A/0414:** Permission granted following third party appeal for a house to the rear of 32B Howth Road. Floor level increased to 4.0m AOD Malin following request for additional information.

5.0 Policy Context

- 5.1. The appeal site is zoned as 'RS' in the Fingal Development Plan 2011-2017. This zoning objective seeks to provide for residential development and protect and improve residential amenity.

5.2. Relevant Objectives:

- RD01: Ensure consolidated development in Fingal by facilitating residential development in existing urban areas.
- RD10 and RD11: Encourage infill and backland development subject to the character of the area being protected and promote the use of contemporary and innovative design solutions subject to the design respecting the character of the area.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:

- Application was lodged as Planning Authority would not facilitate raised floor level as additional information under previous application Reg. Ref. F15A/0315.
- Application seeks to mitigate flood risk concerns raised by applicant's engineer and other nearby decisions of the Planning Authority where floor levels were required to be raised to 4.0m AOD Malin Head by way of Condition.

- Application sought increase of 730mm which is lower than 4.0m AOD but mitigates against most flood events.
- Planning Authority's statement that there will be no flooding is a strong statement to make.
- Neighbouring property less than 10 houses away was asked to raise their floor level to 4.0m AOD Malin identified as strategic long term flood level in Greater Dublin Strategic Drainage Study, due to coastal location (Reg. Ref. F15A/0414)
- Difficult to understand how decision in neighbouring application Reg. Ref. F15A/0414 does not set a precedent for subject application.
- Copy of letter from applicants' engineer previously submitted with planning application enclosed with appeal. Letter states that ground floor level should ideally be at 4.0m AOD Malin, but not lower than 3.68m AOD Malin.

6.2. Planning Authority Response

- The area is not at risk of flooding and increased floor level is not required.
- While OPW maps in 2011 indicated that appeal site and site to rear of 32B Howth Road would be affected by 1:200 coastal flooding, those maps were subject to further assessment.
- The latest maps published in 2015 indicate that neither site will be affected by coastal flooding.
- Request financial contribution Condition if appeal is successful.

6.3. Observations

6.3.1. Four Observations were made by the following third parties:

- Mark & Noeleen Cunningham:
 - One of initial rationales for not granting permission for the original plans was in relation to drainage.
 - Applicants engineer stated on previous application that drainage issues could be addressed, but after permission was granted engineer advised of need to raise floor level due to drainage problems.
 - House will overlook Observers house, destroy skyline view and devalue property.
 - Remedial measure proposed, involving reduced height, reinstated planting and financial penalties for non-compliance.

- Michael & Agnes Cunningham:
 - Proposed height is not in keeping with neighbouring properties.
 - Building will overlook their house.
 - They have never experienced flooding or drainage problems.

- Pat & Mary Considine:
 - Their house has been built 11 years, is not on raised ground, and has never had flood or drainage issues. Neither have other backlands houses to their knowledge.
 - Proposed development would have substantially higher ridge level than other houses in vicinity.

- Raised floor levels would result in overlooking, as trees were removed prior to application being made.
- Jim & Odette O’Dea and Marjorie O’Shea:
 - With the exception of house permitted under Reg. Ref. F15A/0315, all backland houses in the area are modest sized single storey houses with low ridge heights, and boundary trees/hedgerows were retained.
 - All existing backlands houses are smaller and read as subsidiary development relative to main houses fronting onto Howth Road.
 - Applicant has not addressed core reason for refusal – development is out of keeping with character of the surrounding area.
 - Proposed house by reason of scale, height and proximity to boundaries would be visually intrusive and seriously injure residential amenity
 - None of the backlands houses have been constructed on raised ground levels. All of these houses have pumped drainage and based on 70 years of family experience there is no history of flooding at this location.
 - Development Plan Green Infrastructure Map indicates that site is not at risk from coastal flooding.
 - Any concerns regarding flood risk can be addressed by redesigning the house so that floor level is raised without raising ridge height.

- Height of house is excessive compared to existing houses and would exceed original proposal under Reg. Ref. F15A/0315 which Planning Authority deemed incongruous, out of character and overbearing.
- Due to its scale and height relative to existing houses, the house would be visible from the Howth Road and materially affect existing views.
- Given that house has no first floor accommodation, there is no reason why its height could not be reduced with a lower pitched roof. There is need for a single storey house to have a height of 6.535m above ground level.
- Concerned that applicant will seek to use attic space for habitable accommodation in the future.
- Existing trees/planting on western boundary should be retained.

7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- Flood Risk
- Foul Drainage
- Residential Amenity
- Appropriate Assessment

7.2. **Flood Risk**

7.2.1. The applicants contend that the 730mm increase in ground level and floor level is required due to the coastal flood risk. This is supported by map extracts from the

Irish Coastal Protection Strategy Study and a reference to Specific Recommendation 4 of the *Greater Dublin Strategic Drainage Study (2005)* which states that strategic very long term Dublin area planning and highly sensitive areas should use 4.0m AOD Malin.

7.2.2. The applicants also refer to a recent planning application (Reg. Ref. F15A/0414) for a new house at 32B Howth Road, where Fingal County Council requested additional information regarding flood risk, with specific reference to the strategic long term flood level of 4.0m AOD Malin. The applicant in that instance submitted revised plans with a finished ground floor level of 4.0m. I note that this decision was subsequently appealed by a third party (ABP Ref. PL06F.246598) and the Board granted permission on the basis of the revised plans (i.e. with a floor level of 4.0m).

7.2.3. The Planning Authority states that while earlier flood maps identified both the appeal site and the site at 32B Howth Road as being at risk from coastal flooding, more recent assessment has identified that neither site will be affected by coastal flooding. In support of this position there is an OPW flood map dated February 2015 on file, which indicates that coastal flooding will not occur to the south of the railway line in either the 0.5% (i.e. 1:200 year) or 0.1% (i.e. 1:1,000 year) AEP events. The appeal site is therefore not identified as being affected by coastal flooding in either event.

7.2.4. On the basis of the information on file, I am not satisfied that there is a significant flood risk on this site as would warrant a 730mm increase in floor height. With regard to the 4.0m level referenced in the GDSDS, I do not consider that this site is a highly sensitive area and therefore this requirement is not appropriate in this instance.

7.3. Foul Drainage

7.3.1. The secondary rationale for the proposed amendment is to avoid the requirement for a pumped foul sewage design by facilitating a natural fall to the main sewer.

- 7.3.2. No detailed drainage drawing or report was submitted with the planning application or appeal to explain why the change is required. An extract from the Planning Authority's drainage network map was submitted, indicating drainage lines on the Howth Road to the south and in the golf course lands to the north. However, there is no legend on the map to distinguish between foul and surface water lines.
- 7.3.3. The drainage drawing submitted with the parent application for the house (Reg. Ref. F15A/0315) indicates that the site is traversed by an additional foul sewer line located between the existing house and the new house that runs parallel to Howth Road. The permitted foul connection is to this sewer and the invert level at the existing manhole where it will connect is shown as 1.95m. Since the permitted floor level of the house is 2.65m (i.e. 0.15m above ground level), it is unclear why a significant increase in floor level is required for drainage purposes, given that there is already a 0.7m fall between the permitted floor level and the invert level of the manhole.
- 7.3.4. Having regard to the information submitted with the application and appeal, I do not consider that the appellant has provided sufficient justification for raising the ground level and floor level for drainage purposes.

7.4. Residential Amenity

- 7.4.1. The proposed amendment to the permitted development would result in the house having a ridge level of 9.765m, which is significantly greater than the 6.334m ridge level of the existing house to the front of the site and the ridge levels of the adjacent backland houses to the east and west, which are 7.55m and 7.34m respectively.
- 7.4.2. A long section through the site was submitted with the planning application, however I am not satisfied that this accurately represents the impact of the proposed development, since the c. 3.4m difference in ridge level between the existing house

to the front of the site and the permitted house does not appear to be correctly illustrated.

- 7.4.3. It is proposed to raise the ground level across the entire width of the site in the vicinity of the proposed house. The Site Section indicates that this raised ground will extend to the eastern and western boundaries. Given that both boundaries feature mature planting which enhance the character and setting of the existing houses, it is unclear how this could be achieved without removing or adversely affecting this vegetation. In this regard I note Condition 7 of the parent permission, which requires all trees and hedgerows on the boundaries to be retained and protected during construction.
- 7.4.4. Notwithstanding the issue of vegetation, the difference in relative ground levels that would result from the proposed development means that any constructed boundary treatments would likely have to be raised 0.73m to maintain privacy. This would result in excessively high boundary walls/fences facing the adjacent houses to east and west, and I consider that this would have a detrimental impact on the established setting and amenities enjoyed by these properties.
- 7.4.5. The proposed house is located 2.477m from the western boundary of the site, and 1.466m from the eastern boundary. I do not consider that the permitted design of the house lends itself to being raised 730mm, due to this proximity to the site boundaries allied with its height and steeply pitched roof. I consider that raising the level of the house would result in an incongruous and visually obtrusive form of development that would seriously injure the residential amenities of the adjoining properties by reason of visual obtrusion.
- 7.4.6. Finally, with regard to the case at 32B Howth Road which is referred to in the appeal (ABP Ref. PL06F.246598), I do not consider that the case is directly relevant to the subject appeal, since the context in that instance was significantly different, due to the house not being located adjacent to, and aligned with, existing backland houses.

7.5. Appropriate Assessment

- 7.5.1. The closest Natura 2000 sites to the site are Baldoyle Bay Special Conservation Area (Site Code 000199) and Special Protection Area ('Site Code 004016) which are located c. 125m to the north. There are also a number of other Natura 2000 sites in the wider area.
- 7.5.2. Having regard to the nature and scale of the proposed development, which comprises alterations to the finished floor level of a permitted house in a serviced and established residential area, and the location of the site outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider 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.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reason set out below.

9.0 REASONS

The proposed development, by reason of its excessive height relative to surrounding buildings, its bulk and massing and its proximity to site boundaries would be visually obtrusive and out of character with the pattern of development in the vicinity, and would seriously injure the amenities of adjoining residential properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Niall Haverty

Planning Inspector

6th October 2016