



An
Bord
Pleanála

Inspector's Report PL06F.246973

Development

Converting the existing garage into a granny flat and linking the new granny flat to the existing house with a corridor. The existing garage will increase by 1.5m into the rear garden and 1.5m towards the front of the existing house/road.

Location

60 Drumnigh Wood, Portmarnock. Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F16A/0198

Applicant(s)

Darren Costello

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Aiden Murphy

Observer(s)

Dublin Airport Authority

Date of Site Inspection

1st November 2016

Inspector

Una Crosse

1.0 Site Location and Description

1.1. The site in question is located within the site of No. 60 Drumnigh Wood, a residential development located to the south of Portmarnock Village adjoining the Dart line. The site accommodates a large detached dwelling and a garage structure to the southeast of the house. The garage comprises a single storey structure with a pitched roof with openings for cars on the northern elevation and a door and window on the western elevation addressing the applicants garden. The site is adjoined to the east and west by similar residential properties with the eastern and southern walls of the garage structure located on the party boundary with the property to the east.

2.0 Proposed Development

- 2.1. The development proposes the conversion of an existing garage into a granny flat.
- 2.2. It is proposed to extend the structure to the north and west, 1.5 m in each direction and to connect the structure to the main house by way of a glazed corridor. A door is proposed from the proposed flat into the glazed corridor with a door proposed from this corridor into the driveway and another into the main house.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 13 conditions which included:

C2 – when structure no longer required as a family flat its use shall revert to use as part of existing dwelling;

C3 – family flat shall not be let, sold or separately disposed of such as to create a separate residential unit;

C4 – revised floor plans and elevations requiring omission of the door on front elevation of the glazed corridor;

C5 – revised drawings accurately indicating the roof structure of the family flat;

C12 – noise insulation to an appropriate standard to be provided given location of site within the Outer Airport Noise Zone.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the Planning Officer can be summarised as follows:

- Noted the family flat will have a floor area of 60 sq.m. Proposed changes to the garage and the glazed corridor will have a limited impact on the visual amenity of the area. It is noted that there appears to be a discrepancy on the drawing related to the pitch of the roof with revised drawings required. No impact on residential amenity due to overshadowing, loss of light or privacy with the proposed rooflight about 1.8m with no overlooking. Considered appropriate that noise insulation to an appropriate standard be included given location within Outer Noise zone of the Airport.
- While family flats are supported subject to certain criteria but noted that a door in the front elevation of the corridor has the potential to provide for independent access to the family flat which is contrary to the requirements of Objective 25 with a condition considered necessary to omit same. While the proposal encroaches on the driveway, it remains of sufficient length and width to accommodate two cars. Boundary disputes are a civil matter with consent of adjoining owner required in respect of any oversailing or encroachment on a boundary.

3.2.2. Other Technical Reports

Transportation Planning Section – no requirement for additional parking as proposal is for a granny flat – no objection.

Water Services Section – no objection subject to conditions

Irish Water – No objection subject to conditions

3.3. **Prescribed Bodies**

DAA – Refers to Objectives EE51, EE57 & EE58 and states EE51 seeks to strictly control the provision of new residential development within the Outer Noise Zone with conditions proposed for inclusion;

3.4. **Third Party Observations**

As per grounds of appeal and observation

4.0 **Planning History**

None of relevance.

5.0 **Policy Context**

5.1. **Development Plan - Fingal County Development Plan 2011-2017**

Site is zoned for residential use 'RS' in the Development Plan.

Objective RD25 relates to family flats and requires that:

- 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

The site is within the outer public safety zone and outer airport noise zone.

5.2. **Natural Heritage Designations**

The site is located approximately 1km from Baldoyle Bay SAC (site code 000199) and Baldoyle Bay SPA (site code 004016). The matter of appropriate assessment is specifically addressed at Section 7.4 below.

6.0 The Appeal

6.1. Grounds of Appeal

The third party grounds of appeal can be summarised as follows:

- Concern that proposal will be used as rental accommodation;
- Proposal does not comply with Objective RD25 & RF01 of the Plan;
- Glazed link forms an inappropriate form of integration which is visually prominent from the streetscape and out of character with the area;
- Significant amount of glazing will detract from the high quality environment creating an eyesore and an undesirable precedent;
- Permission previously refused by the PA for similar links such as F14B/0052;
- Proposed extension and conversion of the garage exceeds the 60 sq.m requirement;
- No documentary evidence provided to prove applicant's parents require a granny flat which is a requirement of the objectives in the Plan;
- Works and alterations proposed to boundary wall through the extension of the garage and removal of boundary wall with no consent given by appellant;
- No mention in public notices of any demolition works;
- Extension of the garage towards the dwelling will impact on daylight and overshadowing on appellants dwelling with proposal creating a building running whole length of boundary wall impacting on amenity;
- No details provided of servicing of the unit, connections to public mains etc. with assessment of potential impact on Baldoyle Bay SAC and SPA not achievable with no screening of same;
- Lack of parking due to loss of garage and increased parking requirement with resultant haphazard parking;

6.2. Applicant Response

No response received.

6.3. Planning Authority Response

The Planning Authority response to the appeal can be summarised as follows:

- Notes the conditions applied relating to the use of the structure with the conditions preventing its sale or lease;
- Objective RF01 applies to family flats in rural areas with the subject site zoned and no requirement to submit documentary evidence;
- Glazed link does not provide any functional space and its floor area should not be included in calculation of floor area but if included still below 60 sq.m;
- Glazed link will not have a visual impact;
- F14B/0052 not comparable and does not set a precedent as it had a depth of 7m and bisected the rear garden;
- Issue with boundary a civil matter and outside remit of planning system with applicant advised of same;
- PA considers residential amenity of appellant not adversely impacted;
- Conditions applied requiring details of water connection and SuDS proposals with no adverse impacts likely on Natura 2000 sites given nature of proposal and location of same;
- Request if permission granted condition 13 (Section 48) is included;

6.4. Observations

An observation from the Dublin Airport Authority was received which is as per their observation to the PA regarding the location of the site within the Outer Airport Noise Zone and the Outer Public Safety Zone and request appropriate noise mitigation measures are proposed and implemented;

7.0 Assessment

I consider that the following are the key issues:

- Compliance with Development Plan Policy

- Impact on Residential Amenity
- Other Matters
- Appropriate Assessment

7.1. Compliance with Development Plan Policy

The current Fingal Development Plan has a specific provision for family flats which is set out in Objective RD25 and which relates to family flats and requires that a number of conditions are met. I will address each in turn. Firstly, that the family flat is linked directly to the existing dwelling via an internal access door. I note that the glazed link proposed between the existing house and the proposed flat includes a door into the existing house and therefore this condition is met. The flat must be subordinate to the main dwelling which given the scale of the existing house and the proposed flat is met. The next requirement is that the flat should have external doors to the side and rear of the house, with the presumption against an independent front door. The proposed unit has three proposed doors within the glazed link. One of which is a door into the driveway which could be argued to be an independent front door. I note that the PA included a condition requiring the omission of this door. I consider that this is reasonable and if the Board are minded to grant permission that such a condition is included. I consider that the other doors in the glazed link into the main house and the garden as well as the proposed bi-folding doors on the western elevation are appropriate.

The objective also requires that when the structure is no longer required for the identified family member that it is incorporated as part of the main unit on site. I would also note that the potential of the rental of this flat is one of the appellants concerns. I would suggest to the Board that a condition could be attached to any grant of permission specifically stating that the unit revert to use as part of main dwelling and also that a condition is attached requiring that it cannot be leased or sold separately from the main house. Therefore, the condition restricting the lease or sale of the flat would prevent the rental of the unit.

Finally, in terms of size, I note the concerns of the appellant who states that the proposal exceeds the 60 sq.m limit in floor area. I would note that the proposed flat with the areas of proposed extension is approximately 51 sq.m. Therefore, it is within the 60 sq.m limit. There is also concern that the glazed link has not been included in

the calculation of the floor area. I would concur with the PA that the link is not a functioning part of the unit per se and provides a link between the two properties rather than a usable part of the unit. Notwithstanding, if the link was included in the floor area it would still remain within the 60 sq.m limit.

I would note that the appellant's agent refers to the need to provide documentary evidence to prove need for the unit. However as pointed out by the PA in their response to the appeal this requirement relates to units located in rural areas (Objective RF01) rather than units on zoned lands. Therefore, there is no requirement for same. I would however note that the use of the unit is controlled by virtue of the nature of the proposed development and also by the inclusion of a condition controlling the lease or sale of the unit which as I outline above, I recommend the Board should include.

7.2. Impact on Residential Amenity

The appellant considers that the extension of the garage towards their dwelling will impact on daylight and overshadowing on the appellants dwelling with proposal creating a building running the whole length of boundary wall impacting on their amenity. The appellants rear garden is irregularly shaped with the proposed granny flat/existing garage sitting into the appellants site with two walls of the existing garage adjoining the appellant's property. The proposed extension increases the structure to the north along the appellant's boundary by 1.5m. The proposed extension to the west into the applicant's garden does not impact on the appellant's boundary. The existing structure and the extension of same are single storey. The extent of the extension at 1.5m is minor in scale. The structure is located to the west of the appellant's garden. Therefore, the proposal will not adversely impact on the daylight currently enjoyed in the appellant's property nor would adverse overshadowing be created in my opinion.

7.3. Other Matters

The appellant raises concerns about the impact of the proposed development on the visual amenity and character of the area particularly the glazed link. The development within which the site is situate is not an architectural conservation area and does not have any specific protection in respect of the visual character of the area. While the glazed link will change the views into the driveway of the property it

is located within the driveway and does not protrude past the front building line of the house. I therefore consider that the proposal is satisfactory visually. Furthermore, in respect of parking the driveway remains available for parking and the proposal would not in my opinion lead to additional parking of such a scale as would cause a traffic hazard in the area.

One of the appellant's concerns is that works and alterations are proposed to the party boundary wall through the extension of the garage and removal of boundary wall and that no consent for same has been given by the appellant. I would note that the wall of the garage adjoins the eastern boundary of the site and the western boundary of the appellant's property which I note above has an irregular configuration. I would refer the Board to Section 34(13) of the Planning and Development Act 2000 as amended which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

Finally, I note the submission from the DAA and the recommendation to include noise insulation of an appropriate standard within the unit given its location. If the board consider that this comes within the remit of the Board, then a condition could be attached.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and proximity to the nearest European sites, notwithstanding the concerns raised by the appellant, I am satisfied that 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.

8.0 Recommendation

- 8.1. I recommend that permission is granted for the proposed development subject to the conditions outlined below.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not negatively impact on the residential amenity of adjoining properties and therefore would accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) the door on the northern side of the glazed link accessing the driveway of the property shall be omitted.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

3. The proposed granny flat shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.

Reason: To protect the amenities of property in the vicinity.

4. The granny flat shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Una Crosse

Senior Planning Inspector

November 2016