



An  
Bord  
Pleanála

## Inspector's Report PL06F.248409.

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<b>Development</b>	Retention of existing single storey playroom / study / home office / utility area with associated services.
<b>Location</b>	The Cottage, The Ward Lower, The Ward, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FW17B/0007.
<b>Applicant(s)</b>	Maude Joyce.
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Refusal.
<b>Type of Appeal</b>	First Party
<b>Observer(s)</b>	Dublin Airport Authority.
<b>Date of Site Inspection</b>	05/07/2017.
<b>Inspector</b>	Karen Kenny.

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## 1.0 Site Location and Description

- 1.1. The site is located in the rural townland of The Ward Lower to the north of Finglas. The site fronts onto the western edge of the R135 (formally the N2) to the north of the junction of the R135 and R121. Lands in the surrounding area are in agricultural use.
- 1.2. The rectangular shaped site has a stated area of 2,203 square metres. It is enclosed by a high wall along its front boundary and by walls and planting on the northern, southern and western boundaries. There are six structures on the site and two vehicular entrances from the R135.

## 2.0 Proposed Development

- 2.1. Permission sought to retain a single storey playroom / study / home office / utility area. The structure has a stated floor area of 67.5 square metres. It is rectangular in shape with a pitched roof over.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused for 5 no. reasons. The reasons for refusal relate to (1) insufficient clarity in relation to the purpose of the building; (2) insufficient information with regard to the waste treatment system on site; (3) absence of a flood risk assessment; (4) lack of information with respect to surface water disposal; and (5) potential conflict with pedestrians and road users.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officers Report reflects the decision to refuse permission.

#### 3.2.2. Other Technical Reports

**Water Services Section:** Insufficient Information.

**Transportation Planning Section:** Insufficient Information.

### 3.3. **Prescribed Bodies**

**Irish Water:** No report on file. I would note that the Planning Officers Report refers to an Irish Water report that states that the development is acceptable.

**Dublin Airport Authority:** Site falls within Outer Airport Noise Zone and would benefit from a noise assessment. An appropriate level of sound insulation should be incorporated into any final permitted development.

### 3.4. **Third Party Observations**

None.

## 4.0 **Planning History**

**16/81B:** Fingal County Council issued an enforcement notice in respect of the appeal site in relation to two unauthorised dwellings, 1 unauthorised playroom, 1 unauthorised large storage shed, 1 unauthorised shed used as a commercial tyre sales operation and unauthorised 2m high front boundary wall.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The Fingal County Development Plan 2017-2023 came into effect on 16<sup>th</sup> March 2017 and is the relevant statutory plan for the area.

The site is zoned 'GB' – Greenbelt with an objective to 'protect and provide for a Greenbelt'. Residential development is 'permitted in principle' in this zone subject to compliance with the Rural Settlement Strategy. Persons who are deemed to meet the applicant categories set out in the Development Plan will be considered for a

house in the Greenbelt zone, subject to a maximum of one incremental house per existing house (+1 for exceptional health circumstances).

Table 12.4 of the Development Plan sets out “Design Guidelines for Rural Dwellings” addressing site assessment, siting and design, materials and detailing, boundary treatments, assess and sight lines, surface and wastewater treatment and landscaping.

The site is located within the Dublin Airport Outer Noise Zone. Objective DA07 seeks to control inappropriate development, require noise insulation where appropriate, and to actively resist new provision for residential development in this zone.

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within or directly adjacent to a Natura 2000 site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Clarity and detail of the development could have been supplied if a request for additional information was made.
- Lack of clarity in the submitted information does not warrant a refusal.
- A valid planning application was made and refused on lack of clarification of information that was not requested by Fingal County Council.

### 6.2. Planning Authority Response

No response.

### 6.3. Observations

**Dublin Airport Authority:** No new issues raised.

## 6.4. Further Responses

None.

## 7.0 Assessment

I consider that the main issues in this case are as follows:

- Principle of Development
- Waste Services, Flood Risk and Transportation
- Appropriate Assessment Screening

### 7.1. Principle of Development

- 7.1.1. The appeal site is located in a rural area north of Finglas and fronts onto the former N2 (R135). The site is enclosed by high walls, contains six structures and has two vehicular entrances. While the applicant was reluctant to permit a full site inspection, it was noted on the basis of a limited inspection that the structure adjacent to the southern boundary is a dwelling. The use of all other structures was unclear. A sign to the front of the site advertised tyres for sale, suggesting that there may be some form of commercial activity within the site.
- 7.1.2. Permission is sought for retention of an existing single storey playroom / study / home office / utility that is situated centrally within the site. The structure has a stated area of 67.5 square metres, is rectangular in shape with pitched over, has uPVC windows and doors and a dashed wall finish. The submitted floorplans detail a play room and study area, a utility area, a toilet and home office.
- 7.1.3. It was noted on the basis of an external inspection that the structure has a sitting room and a kitchen area. There is a gable window and velux roof light at attic level and an internal staircase that are not detailed on the plans and elevations.
- 7.1.4. The appeal structure at 67.5 square metres (not including first floor accommodation), is similar in size to the existing cottage and is not, therefore, considered to represent a subordinate or ancillary structure. It is also considered that the structure is capable of supporting human habitation in its own right due to its size, standard of construction and kitchen and toilet facilities.

7.1.5. In the absence of further detail in relation to the use of the structure and having regard to the zoning objective for the area and the permissible classes of development in the Greenbelt zone, it is considered that the applicant has failed to demonstrate that the development is subordinate or ancillary to a principle dwelling, that it would not represent a haphazard or piecemeal form of development and that it would be in compliance with the zoning objective for the area.

## 7.2. **Water Services, Flood Risk and Transportation**

7.2.1. The structure incorporates kitchen and toilet facilities and would appear to have a connection to onsite services. The planning application indicates that the development is served by a connection to a public water main, a public wastewater sewer and a public surface water drain, however, no details are provided. The Planning Officer's Report notes that the application provides insufficient information with regard to the existing waste treatment system on site and its compliance with the EPA Code of Practice for Waste Water Treatment and Disposal for Single Dwellings and this is reflected in the reasons for refusal. The Report also notes that there is a lack of information with respect to surface water disposal and this also forms the basis for a reason for refusal. These issues are not addressed in any substantive way in the grounds of appeal. The Planning Authority have expressed the view that the site is serviced by a proprietary waste water treatment system rather than public mains. The building to be retained would result in additional loading on any existing waste water treatment system on the site. I am concerned therefore, that the applicant has not demonstrated that the site can be adequately drained.

7.2.2. The Strategic Flood Risk Assessment of the Fingal County Development Plan, identifies that the appeal site is within Flood Zone B. The Planning Officer's Report notes that insufficient information has been submitted to enable a full assessment in accordance with the Flood Risk Management Guidelines for Planning Authorities (2009) and this is reflected in the reasons for refusal. This issue is not addressed in any substantive way in the grounds of appeal.

7.2.3. There are currently two entrances from the site onto the R135 a busy regional road. I would note that the entrances are not detailed on the submitted site plans and neither access would appear to be adequately recessed so as to provide adequate

sightlines. This issue was raised in the Planning Authorities assessment and in the reasons for refusal and is not addressed in any substantive way in the grounds of appeal. I am not satisfied that the additional traffic movements generated by the development would not result in a traffic hazard on the R135.

### **7.3. Appropriate Assessment Screening**

7.3.1. The appeal is not accompanied by an Appropriate Assessment Screening Report or by a Natura Impact Statement. There is a hydrological link between the appeal site and the Malahide Estuary SAC and the Malahide Estuary SPA. The Ward Stream which adjoins the northern boundary of the appeal site discharges directly into the Malahide Estuary.

7.3.2. On the basis of the information provided with the application and in the absence of an Appropriate Assessment Screening Report and / or Natura Impact Statement and sufficient detail in relation to effluent disposal and flood risk, I am not satisfied that sufficient information exists to reach a conclusion that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Malahide Estuary SAC (000205) and Malahide Estuary SPA (004025) in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

### **8.0 Recommendation**

8.1. I recommend that planning permission should be REFUSED for the reasons set out below.

### **9.0 Reasons and Considerations**

1. The site is located in a rural area that is zoned Greenbelt in the Fingal County Development Plan 2017-2023, with an objective to 'protect and provide for a greenbelt'. The Board is not satisfied on the basis of the information submitted with the planning application and in response to the appeal that the development is in compliance with the Development Plan zoning objective and that it would not represent a haphazard or piecemeal form of development within the Greenbelt zone. Furthermore, the Board is not



satisfied on the basis of the information submitted in relation to foul and surface water drainage and flood risk that the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Karen Kenny  
Planning Inspectorate

3<sup>rd</sup> August 2017