



An
Bord
Pleanála

Inspector's Report PL06F.248833

Development	Retention of change of use from domestic garage to one bedroomed residential unit with attic store room, revised entrance to site and all associated site and drainage works
Location	Lands at Five Lamps, Grange, Cappagh Road, Finglas, Dublin 11
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW17A/0065
Applicant(s)	Sharon and Richard Duffy
Type of Application	Retention
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sharon and Richard Duffy.
Observer(s)	None
Date of Site Inspection	25 th September 2017
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which is triangular in shape with a stated area of 0.529 ha, is located on the western side of Cappagh Road in Finglas, Dublin 11. It is surrounded by a variety of industrial, commercial and warehousing units, while a large quarry is located opposite the site, on the eastern side of the Cappagh Road.
- 1.2. The site itself is subdivided, with an industrial unit, various sheds and a caravan to the west, and the dwelling house and converted garage to the east. The front elevation of the house faces north and both structures are located close to the rear (southern) boundary of the site.
- 1.3. Cappagh Road is a wide straight road, with footpaths and cyclepaths and there is a dedicated right turning lane into the site for traffic travelling in a southward direction. There are three separate side-by-side vehicular accesses into the site, one for the industrial development, one for the house and a central access leading towards the garage, which is boarded up. The garage is located in the centre of the site between the industrial development and the house.
- 1.4. The garage structure has a stated floor area of 70.48 sq m, while the adjacent house has a stated floor area of 230 sq m. The garage structure is rectangular in shape with a pitched roof. Internally it features a living room, kitchen, bathroom, hall, with stair access to an attic storeroom. The floor to ceiling height is stated to be 2.95m at ground floor and a maximum of 2.2m at attic level. Externally the structure features dashed rendering with quoin stone detailing, PVC windows and doors and concrete roof tiles and it is generally similar in design to the main house. There are two rooflights in the western roof slope of the garage.

2.0 Proposed Development

- 2.1. The proposed development consists of retention of change of use from a domestic garage to a one-bedroom residential unit with attic storeroom with revised entrances to site and all associated site and drainage works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse retention permission for two reasons, summarised as follows:

1. Site is zoned GE, General Employment. The development, by reason of its residential use, materially contravenes this zoning objective.
2. Development represents a substandard form of residential development due to insufficient internal floor area and internal storage provision. The development therefore contravenes Objective DMS24 of the Development Plan and represents an undesirable precedent for further such development.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's Report can be summarised as follows

- Residential development is within the not permitted use classes for the GE zoning objective. Therefore, the principle of change of use is not acceptable.
- Objective Z05 is not appropriate as the converted garage is not linked to the main dwelling or form part of the main dwelling. It is used as a separate dwelling entirely.
- Situation has not changed from previous planning application Reg. Ref. FW16A/0156 to warrant a different decision.
- Garage is accessed via a narrow driveway c. 2m wide with timber fencing to either side.
- There was no bedroom in the attic at the time of site visit.
- Garage is 47 sq m at ground floor level. This is below the minimum requirement of 50 sq m for a 1 bedroom 2 person house in the Fingal Development Plan 2017-2023. The minimum requirement for a 2 bedroom 3 person house is 64 sq m.
- There is no dedicated storage area. 2.5 sq m of storage is required for a 1 bedroom 2 person house.

- Objective DMS24 requires new residential units to comply with or exceed the minimum requirements set out in the Development Plan. The development contravenes this objective and is unacceptable.
- Having regard to the nature of the development and distance to nearest European site, no appropriate assessment issues arise.

3.3. **Other Technical Reports**

- 3.3.1. **Water Services Section:** Further information required regarding details of existing and proposed foul and surface water drainage.
- 3.3.2. **Transportation Planning Section:** Further information required regarding car parking arrangements.

3.4. **Prescribed Bodies**

- 3.4.1. **Irish Water:** Further information required regarding existing and proposed foul drainage.

3.5. **Third Party Observations**

- 3.5.1. None.

4.0 **Planning History**

4.1. **Appeal Site**

- 4.1.1. **Reg. Ref. FW16A/0156:** Retention permission was sought for change of use from domestic garage to one bedroomed residential unit with attic storeroom and retention of light industrial unit on adjoining site with revised entrances to site and drainage works. A split decision was made. Retention permission was granted for the light industrial unit with revised entrance and drainage works, and Condition 4 required the entrance and entrance gate associated with the garage to be removed and replaced with a wall matching the entrance wall associated with the main dwelling. Retention permission was refused for the change of use of the garage for the same

two reasons as the current case, albeit with reference to the previous Fingal Development Plan 2011-2017.

- 4.1.2. **Reg. Ref. FW09A/0178:** Permission was granted in 2010 for: demolition of existing bungalow, construction of a new filling station to provide for two storey building with ground floor forecourt shop, eat in restaurant and hot food / deli facility for consumption in and off the premises, stores, toilets, offices, internal ATM machine, first floor to comprise, offices, locker rooms, toilets, canteen and stores, provide petrol/diesel forecourt including forecourt canopy, pumps, two car washes, car wash plant room with water recycling equipment / water tank, external HVAC compound, Car service bar area providing air, water, vacuum cleaner and bin, underground fuel storage tanks, remote truck diesel pump to rear of building with associated overground diesel tank shop signage, I.D. sign, waste compound, car parking, new hard standing surfaces to comprise macadam, concrete and hard permeable paving, drainage works to include provision for on site surface water attenuation , provision of new site water main, water meter, new connection to council water main, new site entrance and exit points together with ancillary works. The duration of the permission was subsequently extended to 28th July 2020.
- 4.1.3. **ENF15/121B:** Enforcement file relating to three unauthorised sheds, entrance and garage converted into living quarters.

4.2. Surrounding Area

- 4.2.1. I am not aware of any relevant recent planning history in the surrounding area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The proposed development is governed by the policies and provisions contained in the Fingal Development Plan 2017-2023.
- 5.1.2. The appeal site and surrounding area are zoned 'GE' under the Fingal Development Plan 2017-2023, to 'provide opportunities for general enterprise and employment'. The vision is to facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical

environment. General Employment areas should be highly accessible, well designed, permeable and legible. Residential is a 'Not Permitted' land use class under the GE zoning objective, except where a person who is an immediate member of a family in the immediate area who has not been granted permission for a dwelling previously, and is considered to have a need to reside adjacent to the family home by reason of that person's exceptional health circumstances.

5.1.3. Section 11.5 of the Development Plan relates to non-conforming uses and states that there are uses which do not conform to the zoning objective of the area. These are uses which were in existence on 1st October 1964, or which have valid planning permissions, or which are unauthorized but have exceeded the time limit for enforcement proceedings. Reasonable intensification of extensions to and improvement of premises accommodating these uses will generally be permitted subject to normal planning criteria. This is supported by Objective Z05: Generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria.

5.1.4. Minimum quantitative standards for residential units are set out in Tables 12.1 – 12.3. Objective DMS24 requires that new residential units comply with or exceed the minimum standards as set out in these Tables.

5.1.5. Other relevant Objectives:

- Objective DMS87: Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:
 - 3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1. A first party appeal was lodged by Paul Redmond Architectural Services Ltd. on behalf of the applicants. The issues raised in the appeal can be summarised as follows:

- The domestic property has been in place long before the lands were rezoned 'GE' and the industrial units and associated infrastructure built.
- It is unfair to request that the garage be reinstated to its former use. If the converted garage is not permitted due to the zoning, then does this principle not apply to the main dwelling also?
- The development is not sub-standard, and the floor area and individual room sizes are adequate. The entire attic space is used for storage which is larger than the available storage space in most residential units.
- Applicants agree that the development represents an undesirable precedent for further such development, the house and converted garage were in place long before Objective DMS24 of the Development Plan was ever drafted. It is unlikely that any such applications will be sought in the future.
- In the current climate and taking into account the homelessness crisis, it is not desirable to put yet another family on the street.
- The main dwelling had succumbed to effects of pyrite and the applicant needed a place to stay whilst repairs were taking place. It is intended that the converted garage, still currently occupied by the applicant can be made available once again to his daughter and her partner when this issue is resolved.

6.1.2. A letter from the applicants was also submitted with the appeal, and the issues raised in the letter can be summarised as follows:

- Applicants were refused permission on two occasions. On the first occasion they were told to change the entrance and close-up the upstairs. They complied with this and re-submitted plans.
- On the second occasion they were refused due to the substandard form of residential development. The plans show that there is more than adequate space for a large one-bedroom accommodation unit with sufficient storage space.
- Applicants have lived on the site for over 20 years long before the site was rezoned.

- Applicants' son and family lived in the property for a number of years to save money for a mortgage. Applicants' daughter has moved in to do the same.
- In view of the housing crisis, it seems unprecedented that a fully functioning family home be changed back into a domestic garage.

6.1.3. A letter from Dessie Ellis TD was also submitted with the appeal. The letter supports the applicants' appeal and reiterates the above points.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority's response to the appeal can be summarised as follows:

- Some of the issues raised in the appeal are not relevant from a planning perspective.
- The minimum requirements with regard to internal floor area and storage for residential units have been a requirement of a number of previous Development Plans and not just the existing Plan.
- Floor area is below the minimum floor area requirement of the Development Plan.
- Objective DMS24 requires new residential units to comply with these minimum requirements.
- Residential development is not permitted within the GE zoning objective. Objective Z05 is not appropriate since the garage is not linked to the main dwelling and is a separate dwelling entirely.
- The situation has not changed from the previous planning application Reg. Ref. FW16A/0156.

6.3. **Observations**

6.3.1. None.

6.4. **Further Responses**

6.4.1. None.

7.0 Assessment

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

- Principle of development.
- Layout and design.
- Other.
- Appropriate assessment.

7.2. Principle of Development

- 7.2.1. The site is located within an area which is zoned as 'GE'. This zoning objective is generally for employment related uses, and residential use is not permitted under this zoning objective, except where a person who is an immediate member of a family in the immediate area who has not been granted permission for a dwelling previously, and is considered to have a need to reside adjacent to the family home by reason of that person's exceptional health circumstances. The applicant has not sought to argue that there are any exceptional health circumstances in this case that would give rise to a requirement for a family member to reside adjacent to the family home, and I therefore consider the proposed development to be non-compliant with the zoning objective for the site.
- 7.2.2. Notwithstanding this, Section 11.5 of the Development Plan and the associated Objective Z05, state that reasonable intensification of, extensions to and improvement of premises accommodating non-conforming land uses will generally be permitted subject to normal planning criteria. However, I concur with the Planning Authority that these provisions do not apply in the case of the converted garage, since it is a separate dwelling entirely from the main house and is not an extension to or improvement of the existing house.
- 7.2.3. In conclusion, having regard to the 'GE' zoning of the site under which residential use is generally not permitted, I consider that the proposed residential development would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.

7.3. Design Standards

7.3.1. While the planning application form states that the floor area of the converted garage is 70.48 sq m, the drawings accompanying the application indicate a floor area of c. 45.4 sq m, with a further 21.76 sq m in the attic storeroom. The attic storeroom has a substandard floor-to-ceiling height of 2.2m and is solely lit by rooflights, and should not therefore be considered to represent habitable floor space in my opinion.

7.3.2. Table 12.1 of the Development Plan sets out minimum quantitative standards for residential accommodation. For a one bedroom/two person unit, the relevant standards are as follows:

- Minimum gross floor area: 50 sq m.
- Main living room: 11 sq m.
- Aggregate living area: 23 sq m.
- Aggregate bedroom area: 11.4 sq m.
- Storage area: 2.5 sq m.

7.3.3. While the living room size and bedroom size comply with the minimum requirements, and there is considerable storage area available at attic level, the gross floor area of the unit at 45.4 sq m is substandard, and does not comply with the minimum 50 sq m requirement for a one bedroom unit.

7.3.4. Having regard to the failure to comply with the minimum gross floor area requirement for a one bedroom residential unit, I recommend that permission be refused on the basis that the proposed development would contravene Objective DMS24 of the Fingal Development Plan 2017-2023, would set an undesirable precedent for further such development in the area and would be contrary to the proper planning and sustainable development of the area.

7.4. Appropriate Assessment

7.4.1. Having regard to the nature and scale of the proposed development, which relates to the retention of change of use and works to a garage structure adjacent to a house in a zoned and serviced built-up area, the nature of the receiving environment and the proximity to the nearest European sites, 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 retention permission should be REFUSED for the reasons set out below.

9.0 Reasons and Considerations

1. Having regard to the 'GE' zoning of the site, the objective of which is to provide opportunities for general enterprise and employment, and under which residential use is not permitted except where a person who is an immediate member of a family in the immediate area who has not been granted permission for a dwelling previously, and is considered to have a need to reside adjacent to the family home by reason of that person's exceptional health circumstances, and having regard to the location of the site adjoining an industrial estate, it is considered that the development proposed to be retained would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the development proposed to be retained, by reason of its inadequate gross floor area, would contravene Objective DMS24 of the Fingal Development Plan 2017-2023, constitute a substandard form of residential development, and set an undesirable precedent for further such development in the area. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

Niall Haverty
Planning Inspector

25th September 2017