



An
Bord
Pleanála

Inspector's Report ABP-300048-17

Development

The demolition and reconstruction of an existing extension and additional extensions to side and rear of single storey dwelling, the widening of the entrance gateway to improve vehicular access and all associated site works.

Location

5 Sarto Road, Sutton, Dublin 13.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F17A/0481

Applicant(s)

Norah Walsh

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

First Party

Appellant(s)

Norah Walsh

Observer(s)

None

Date of Site Inspection

None required

Inspector

Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located at the corner of Sarto Road and Roncalli Road between Kilbarrack and Sutton approximately 8km north east of Dublin City Centre. Sarto Road commences at a 'T' junction with Kilbarrack Road (R104) and continues north-east to Bayside Crescent. The southern half of the road is aligned on both sides with single storey hipped-roof dwellings, most of which retain the original design comprising bay windows, brick frontage and chimneys in side roof planes. Some dwellings have been altered to include converted garages to the side
- 1.2. The dwelling on the appeal site has a single storey flat roof garage and kitchen to its south-western side. A single storey extension wraps around the south-western and north-eastern sides of the garage/ kitchen. There is also a rear return to the dwelling along the north-eastern boundary, which has been extended pre-1968. The stated area of the site is 0.059 hectare. The floor area of the existing dwelling is given as 150.2 sq.m.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - Demolition and reconstruction of existing extension;
 - Construction of additional extensions to side and rear;
 - Widening of existing entrance gateway;
 - Gross floorspace of proposed works: 45.4 sq.m.
 - Gross floorspace of work to be retained: 17 sq.m.
 - Gross floorspace of any demolition: 23.9 sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Fingal County Council issued notification of decision to grant permission for the proposed development subject to eight conditions.
- 3.1.2. Condition 8 requires the developer to pay a sum of €3,719 as a contribution in respect of public infrastructure and facilities as provided for in the Contribution Scheme for Fingal County.
- 3.1.3. A note to this condition states that the contribution payable may be reduced by the amount of contribution associated with water and wastewater services, which are now the responsibility of Irish Water.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to grant permission in the Planner's Report is consistent with the decision of the Planning Authority.
- 3.2.2. It is noted under the assessment of the application that the development description seeks retention of the overall previously constructed development and the application has therefore been assessed as such.
- 3.2.3. The financial contribution condition attached to the Planner's Report has been amended to accord with the Contributions Scheme rather than in lieu of open space provision.

3.3. Prescribed Bodies

- 3.3.1. Irish Water has no objection to the proposed development subject to attachment of notes to the planning decision relating to connection agreement and constraints.

4.0 Planning History

- 4.1. None relevant.

5.0 Policy Context

5.1. Fingal County Development Plan,

- 5.1.1. The appeal site is zoned “RS” where the objective is to *“provide for residential development and protect and improve residential amenity.”*

5.2. Natural Heritage Designations

- 5.2.1. The North Bull Island SPA and the North Dublin Bay SAC is located approximately 250m to the south-east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal against Condition 8 only of the Council’s decision was submitted on behalf of the applicant. The grounds of appeal and main points raised in this submission can be summarised as follows:

- There may have been a lack of clarity in the applicant’s description of the development and an amended drawing is enclosed with the appeal for clarification.
- Applicant is undertaking what normally constitutes exempted re-build and minor extension works apart from additional new build area ‘A’ bringing the build above exemption limits.
- Areas ‘B’ and ‘C’ are assumed by the applicant to be pre-’63 and were in place prior to purchase of the dwelling in 1968. Extensions were also in place prior to the introduction of development contributions in 2000.
- Works carried out in area ‘B’ are renovation only and works to area ‘C’ consist of re-building and re-roofing a substandard 1960’s construction to meet current standards, along with internal space reconfiguration.
- Description of development with regards to additional floor area for levy purposes should be calculated on the 10 sq.m. extension at area ‘D’ and 3 sq.m. at area ‘A’.

6.2. Planning Authority Response

6.2.1. The Planning Authority responded to the first party appeal with the following comments:

- Condition 8 was calculated on the basis of 46 sq.m. x €80.85 = €3,719.
- Under Section 10(ii) of the Development Contributions Scheme 2016-2020 *“exemptions and reductions shall not apply to permissions for retention of development”*.
- Development Contributions Guidelines states that *“no exemption or waiver should apply to any applications for retention of development. Planning authorities are encouraged to impose higher rates in respect of such applications.”*

7.0 Assessment

7.1. This is an appeal against a financial contribution condition only attached to Fingal County Council’s decision to grant permission for the demolition and reconstruction of an existing extension and additional extension to side and rear of a single storey dwelling, together with widening of the entrance gateway.

7.2. Under Section 48 10 (b) of the Planning and Development Act, 2000 (as amended), an appeal may be brought to the Board where an applicant for planning permission considers that the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the Planning Authority.

7.3. Condition 8 requires the developer to pay contributions totalling €3,719 in respect of public infrastructure and facilities as provided for in the Contributions Scheme for Fingal County. This amount was calculated on the basis of a 46 sq.m. floor area and a residential rate of €80.85 per sq.m. effective from 1st January 2017.

7.4. Section 10 of the Fingal County Council Development Contribution Scheme 2016-2020 sets out categories of development that are exempted from the requirement to pay development contributions under the scheme. The first 40 sq. m. of domestic extensions are exempted and it is noted that this exemption is cumulative and limited to 40 sq.m. in total per dwelling. Therefore, any previous extensions would be

included cumulatively within the calculation. Domestic extensions for accommodation of disabled person(s) are exempted in full in cases where a Disabled Persons Grant is approved. It is stated in the first party appeal that the applicant requires improved accessible living and bedroom accommodation for herself and her disabled daughter; however, there is no evidence on file of approval of a Disabled Persons Grant.

7.5. The 46 sq.m. area applied by the Planning Authority is taken from the proposed plans to include a 17 sq.m. area for retention to the south-west, an adjoining rebuild area of 18.5 sq.m. and a new build area adjoining the rear return to the north-east. For clarification purposes, it is stated in Section 10(ii)(a) of the Contributions Scheme that *“exemptions and reductions shall not apply to permissions for retention of development.”* It would appear therefore that the Planning Authority has taken that all existing extensions to the dwelling are post 1963 and therefore unauthorised. It is submitted within the first party appeal, however, that the existing extensions to the south-west and to the rear of the existing rear return are assumed to be pre-1963; the applicant has confirmed that these extensions were in place prior to her purchase of the dwelling in 1968.

7.6. In my opinion, it would be unreasonable in this case to consider elements of the proposed development as retention when the proposal comprises new build and rebuild and when the existing extensions are likely to pre-date 1963. The area of any pre-1963 extension should nonetheless be included cumulatively for the purposes of calculating development contributions.

7.7. Having regard to the above, and taking account of the exemptions and reductions contained within Section 10 of the Fingal County Development Contribution Scheme 2016-2020, I consider that the reckonable floor area for the purposes to calculating development contributions in this case should be 17 sq.m. (57 sq.m. total development area minus first 40 sq.m. of domestic extension exempted).

7.8. **Appropriate Assessment**

7.8.1. 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.

8.0 Recommendation

- 8.1. It is recommended that Condition 8 should be amended for the following reasons and considerations.

9.0 Reasons and Considerations

The Board, in accordance with section 48 of the Planning and Development Act, 2000, (as amended) considered that the terms of the Fingal County Council Development Contribution Scheme 2016-2020 for the area had not been properly applied in respect of Condition 8 and directs the said Council to AMEND said condition to reflect the accurate reckonable floor area by exempting the first 40 sq.m. of the total redevelopment/ extension area of 57 sq.m. The Board considers that the proposal does not contain any elements of retention development.

10.0 Condition

1. The developer shall pay to the planning authority a financial contribution of €1,374.45 (one thousand, three hundred and seventy-four euro and forty-five cents) 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. The application of any indexation required by this condition 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.

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.

Donal Donnelly
Planning Inspector

5th January 2018