



An
Bord
Pleanála

Inspector's Report ABP-300576-18

Development	Retention of a single storey flat-roof home based office and garden storage in rear garden, total area 39 square metres, overall height 3.0 metres above ground level with associated site works (previously approved planning ref. F15A/0131).
Location	1 Kitestown Road, Howth, Co. Dublin, D13 FK03.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0621
Applicant(s)	Mr & Mrs E. Keogh
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael Gray
Observer(s)	None
Date of Site Inspection	2 nd May 2018
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.19 ha, is located on the northern side of Kitestown Road, close to its junction with Thormanby Road, in Howth, Co. Dublin. It forms an elongated rectangular area that is c. 20m wide and c. 100m long and is currently occupied by a detached house, its associated private open space and a part-built concrete block structure in the rear garden (i.e. to the north of the house).
- 1.2. Due to the location of the appeal site on the northern slopes of the Hill of Howth there is a significant level change across the site from south to north. As a result, the existing house appears to be single storey from the front elevation, but two/three storeys from the rear elevation.
- 1.3. The site is bounded by blockwork walls to the north and east, and by hedging to the west. Detached houses are located to the east and west of the appeal site, while a second detached house has been constructed in the rear garden of the house to the west. To the north there is a recent development of detached houses known as Thormanby Hill, and the rear gardens of two of these houses back onto the appeal site.

2.0 Proposed Development

- 2.1. The development for which retention permission is sought consists of a single storey flat-roof structure with a stated floor area of 39 sq m. The proposed use of the structure is a home-based office and children's den/garden storage.
- 2.2. The structure comprises a rectangle that is c. 5.71m wide x 7.19m deep, with a protruding entrance lobby and toilet area. Internally it is subdivided into the office and den/storage area. It has a stated height of 3m, and features two glazed French doors and an entrance door on its southern elevation and a small square window on the northern elevation serving the toilet area. There are no openings on the other elevations, and there are two rooflights proposed in the flat roof.
- 2.3. The proposed finishes comprise render painted to match the existing house and a grey glass fibre roof system.

2.4. A c. 1m high retaining wall has been constructed on the southern and western sides of the structure to provide a level base on the sloping site, and a gravel path runs along the western boundary of the rear garden, linking the structure to the house.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council decided to grant permission, and the following summarised conditions are noted:

- C2: Structure shall not be used for short-term holiday letting, sleeping accommodation or the carrying on of any trade or business.
- C3: Development contribution.

3.2. Planning Authority Reports

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

- Proposed development is acceptable in principle within the zoning objective for the area.
- Development Plan supports home-working or home-based offices within housing areas.
- Structure is low profile and modest in scale. A more visually imposing structure was permitted under F15A/0131.
- It is not considered that the structure has resulted in a significant negative visual impact or impact on residential amenity to the existing house or surrounding area.
- Applicant has clearly stated what the use of the structure will be. This is considered acceptable. Condition restricting uses should be attached.

3.3. Other Technical Reports

3.3.1. None.

3.4. Prescribed Bodies

3.4.1. None.

3.5. Third Party Observations

3.5.1. One third party observation was made by the appellant. The issues raised were generally the same as his appeal.

4.0 Planning History

4.1. Appeal Site

4.1.1. **F15A/0131**: Permission granted for construction of storey and a half double garage with room in roof for home-based office. Total area of 58 sq m and overall height of 6.15m above ground level.

4.1.2. **F14B/0300**: Permission granted for construction of two storey extension over part basement at rear and side to existing storey and a half dwelling.

4.1.3. **PL06F.225909 (Reg. Ref. F07A/0248)**: Permission refused for change of house plan granted under Reg. Ref. F04B/0645, enclosed swimming pool and demolition of an existing dwelling. Refusal reasons related to impact on visual amenities of the Buffer Zone of the SAAO and injury to amenities of property by reason of visual intrusion.

4.1.4. **F04B/0645**: Permission granted for construction of a two storey extension over part basement to the side and rear of an existing storey and a half bungalow dwelling.

4.2. Surrounding Area

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

5.0 Policy Context

5.1. Fingal Development Plan 2017-2023

- 5.1.1. The appeal site is located within an area zoned 'RS', 'provide for residential development and protect and improve residential amenity'. I note that 'Office Ancillary to Permitted Use' is permitted in principle.
- 5.1.2. The appeal site is also located within an area identified as the 'Special Amenity Area Buffer Zone', which is outside of the designated area covered by the Howth Special Amenity Area Order. A local Objective to protect and preserve trees, woodlands and hedgerows applies to the adjoining site to the east. The entirety of the Howth peninsula is also designated as a 'Highly Sensitive Landscape'.
- 5.1.3. The following Objectives are noted:
- HOWTH 4: Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone.
 - ED108: Support the provision of home based economic activity that is subordinate to the main residential use of a dwelling and that does not cause injury to the amenities of the area.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located within or immediately adjacent to any sites with a natural heritage designation. There are, however, a considerable number of designated sites in the vicinity of Howth, including Howth Head SAC, Howth Head Coast SPA, Rockabill to Dalkey Island SAC, North Bull Island SPA, North Dublin Bay SAC, Baldoyle Bay SAC, Baldoyle Bay pNHA, North Dublin Bay pNHA and Howth Head pNHA.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was received from Mr Michael Gray, the owner of No. 2 Kitestown Road, the property to the west of the appeal site. The issues raised in the appeal can be summarised as follows:

- Appellant and neighbours were not aware of planning application Reg. Ref. F15A/0131 for storey and a half double garage and office or that FCC had granted permission.
- Appellant was shocked when he saw the two storey building being constructed in January 2017. Following meetings, the applicant removed the second storey.
- Proposal contravenes PL5 house extension leaflet.
- Structure differs from that granted permission under Reg. Ref. F15A/0131.
- Proposal could lead to a two storey flat roofed structure in the future which would damage the amenity value of the appellant's house.
- Structure has devalued appellant's house.
- No precedent for one storey buildings in the back gardens of houses in Howth and Sutton.

6.1.2. The appellant submitted a number of dated photographs showing the structure for which retention permission is sought at various stages of construction.

6.2. Applicant Response

6.2.1. A response to the appeal was submitted by J.G. Consulting on behalf of the applicants. The issue raised can be summarised as follows:

- Planning authority took cognisance of their previous decision to grant permission for a much larger structure at the same location, for which a valid permission still exists.

- Applicants are disappointed that the appellant continues to object, given that they have made a substantial reduction to the original approved building in the interest of good neighbourliness.
- Development is in strict accordance with separation distance requirements of the Development Plan.
- Previous larger permission at this exact location was not appealed.
- The appellant has failed to recognise that permission was granted in 2005 for a large two storey dwelling in his rear garden, to which no objection or appeal was lodged.
- RS zoning objective supports the proposed development.
- Proposed development is conducive to the character of the area, respecting the individual nature and design of the detached dwellings that adjoin the site.
- Development Plan supports, in the interests of sustainable placemaking, home-working and home-based offices.
- Proposed development by virtue of its scale and design would not unduly impact on the residential amenity of the neighbouring property or the surrounding area. No undue impacts in relation to overlooking or overbalance [sic] is anticipated.

6.3. **Planning Authority Response**

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

- No new issues raised in appeal. Matters raised were dealt with during assessment of application.
- Request that Condition 3 be included, if their decision is upheld.

6.4. **Observations**

6.4.1. None.

6.5. Further Responses

6.5.1. None.

7.0 Assessment

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

- Design and layout.
- Residential amenity.
- Appropriate Assessment.

7.2. Design and Layout

7.2.1. The applicants were granted planning permission in 2015 (Reg. Ref. F15A/0131) for a storey and a half double garage with room in the roof for a home-based office to the rear of their house. The structure for which permission was granted extended to 58 sq m, with an overall height of 6.15m. There were no observations in relation to that application and it was not appealed. It should be noted that the above permission remains extant.

7.2.2. The structure for which retention permission is sought is relatively simple and low key in design, with rendered blockwork walls and a fibreglass flat roof. The main openings in the structure are on its southern elevation, facing the applicants' house and there are no openings on the side elevations facing the adjacent properties. A small window serving a bathroom is located on the northern elevation. I consider the design and finishes of the structure to be compatible with the design of the existing house.

7.2.3. As noted above there is a significant drop in ground level from south to north across the appeal site, as a result of its location on the northern slopes of the Hill of Howth. Subsequently, the floor level of the applicants' house is c. 4m below the level of Kitestown Road, and the roof level of the structure for which retention permission is sought is c. 1.5m below the main floor level of the house, and is at almost the same level as the ground level to the rear of the house. I also note that the site has been excavated to provide a level platform for the construction of the structure,

surrounded by a c. 1m high retaining wall. I consider that this excavation combined with the steep slope of the appeal site serves to embed the structure within the site, reducing its apparent height relative to ground level and significantly reducing the visual impact of the structure relative to the surrounding properties.

- 7.2.4. While the structure for which retention permission is sought is reasonably sizable for a garden office/store, with a stated floor area of 39 sq m, it must be viewed in the particular context of the appeal site, which extends to c. 1,900 sq m and which has a steeply sloping topography, which will result in the roof level of the structure being comparable to ground level at the rear of the house and the adjacent houses to east and west. I consider the appeal site to be of sufficient size so as to be capable of absorbing the development and I further consider that the separation distance of c. 30m between the existing house and the garden structure is sufficient to ensure that it will not be overly dominant and will remain subservient to the main house.
- 7.2.5. With regard to the wider visual impact of the proposed development and its impact on the Howth Special Amenity Area Buffer Zone and Howth's 'Highly Sensitive Landscape', I note that the structure will not be readily visible from the wider area due to its location to the rear of the existing house and the steeply sloping nature of the appeal site, which serves to obviate views of the structure from outside of the site. Having regard to the location of the proposed development within an established residential area, the established pattern of development in the vicinity, which includes backlands development immediately to the west, and the limited scale of the structure, I therefore consider that the proposed development will not be seriously detrimental to the visual amenities or special character of the 'buffer zone' area.

7.3. Residential Amenity

- 7.3.1. The structure to which this appeal relates is located towards the eastern boundary of the appeal site. It is separated from this boundary by c. 1m, and is separated from the eastern boundary by c. 12m. The structure is located c. 30m north of the applicants' house, and the separation distances from the houses to the east and west are c. 25m and c. 29m, respectively.

- 7.3.2. As noted above, the topography in the area slopes steeply downward from south to north and the structure has been sunken into the slope by c. 1m on its southern elevation (i.e. the elevation closest to the existing houses).
- 7.3.3. Having regard to the site topography, the limited size and extent of the proposed development, its location within the appeal site, the separation distances and boundary treatments to east and west, I am satisfied that the structure does not result in any significant impacts in terms of overlooking, overbearing, overshadowing or loss of sunlight and daylight.
- 7.3.4. With regard to potential impacts on residential amenity arising from the use of the structure, I note that the applicants state that it will be used as a home office and children's den/garden store. The proximity of the structure to boundaries with adjoining properties give rise to potential impacts, particularly with regard to noise generation should the structure be used as habitable accommodation or for a commercial activity. I therefore recommend that if the Board is minded to grant permission, a condition be attached to ensure that no habitable use, commercial activity or subletting/sale of the structure occurs.
- 7.3.5. In conclusion, subject to the conditions outlined above, I am satisfied given the distance to adjacent dwellings, the design and orientation of the proposed development and the established building typology of the area that the proposed development will not seriously injure the residential amenities of properties in the area.

7.4. Other Issues

- 7.4.1. The appellant refers to non-compliance with leaflet PL5, published by the Department of Housing, Planning and Local Government. This leaflet relates to 'doing work around the house', and simply provides guidance to homeowners regarding the types of works that may or may not comprise exempted development. It is therefore not relevant to this appeal.

7.5. Appropriate Assessment

- 7.6. Having regard to the nature and scale of the proposed development, which relates to the retention and completion of a home office/store to the rear of an existing house in

an established residential area outside of any Natura 2000 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 planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objectives for the area and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be in accordance 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 application, 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 structure for which retention permission was sought shall be used solely for non-habitable uses ancillary to the main dwellinghouse and shall not be used for the carrying out of any trade or business or sold, let or otherwise transferred or conveyed save as part of the dwelling.

Reason: In the interest of clarity and of residential amenity.

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

Reason: In the interest of public health.

4. Site development and building works shall be carried out between the hours of 0800 hours to 1900 hours Monday to Friday inclusive and between 0800 hours and 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times shall 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 properties in the vicinity.

5. 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.

Niall Haverty
Planning Inspector

3rd May 2018