



An  
Bord  
Pleanála

## Inspector's Report ABP-301516-18.

---

<b>Development</b>	Alterations and extension to dwelling.
<b>Location</b>	14 Rockfield Park, Coolmine, Dublin 15.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FW18B/0014.
<b>Applicant(s)</b>	Jennifer Lynott.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Fionnuala O'Reardon.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	12 <sup>th</sup> July 2018.
<b>Inspector</b>	Karen Kenny.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	3
3.3. Prescribed Bodies .....	4
3.4. Third Party Observations .....	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
5.2. Natural Heritage Designations .....	5
6.0 The Appeal .....	5
6.1. Grounds of Appeal .....	5
6.2. Applicant Response .....	5
6.3. Planning Authority Response .....	5
6.4. Observations .....	6
7.0 Assessment.....	6
8.0 Recommendation.....	8
9.0 Reasons and Considerations.....	8
10.0 Conditions .....	8

## **1.0 Site Location and Description**

- 1.1. Rockfield Park is a short residential cul-de-sac that is accessed directly from the Coolmine Road.
- 1.2. The appeal site, with a stated area of 0.0234 hectares, fronts onto the northern side of the cul-de-sac. The site accommodates a two storey semi-detached dwelling with a single storey flat roof garage to the side.
- 1.3. The area is characterised by two storey semi-detached dwellings. There are single storey flat roof garages to the side of each dwelling along the cul-de-sac that link to form a terrace at ground level.

## **2.0 Proposed Development**

- 2.1. Permission is sought to construct a new porch to the front of the dwelling, to convert the existing garage to the side for habitable purposes, to construct a first-floor extension over the garage, and to install 2 no. velux roof windows on the front slope of the main roof of the dwelling.
- 2.2. The proposed works have a stated floor area of 28.7 square metres.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission subject to 8 no. conditions. Condition no. 2 is to reduce the ridge height of the extension by 0.2 metres and requires revised drawings to be submitted for agreement prior to the commencement of development.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's Report reflects the decision to grant permission.

#### **3.2.2. Other Technical Reports**

None.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

A submission was received from the owner and occupier of the adjoining dwelling to the east. The issues raised are similar to those raised in the grounds of appeal below.

## 4.0 Planning History

4.1.1. There is no recent planning history pertaining to the appeal site.

4.1.2. Planning History in Rockfield Park

**P.A. Ref. FW14B/0080:** Application for conversion of garage and alterations to no. 13 Rockfield Park. Permission Granted.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. A number of Development Plan objectives are relevant:

- The site is zoned RS with an objective to “provide for residential development and protect and improve residential amenity”.
- Objective PM46 encourages sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- Section 12.4 sets out ‘Design Criteria for Residential Development’. The following extract relates to extensions to dwellings:

*“The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not*

*have a negative impact on adjoining properties or on the nature of the surrounding area.”*

- Objective DMS42: Encourage more innovative design approaches for domestic extensions.

## 5.2. **Natural Heritage Designations**

None.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

A third-party appeal has been received from the occupants of the adjoining dwelling no. 12 Rockfield Park. The grounds of appeal, that are relevant to the appeal, can be summarised as follows:

- The development, in particular the first floor extension, would be impossible to construct without damaging the appellant’s party wall and garage roof.
- In the event that a decision is made to grant permission it should be a condition of the permission that the applicant seek and obtain agreement from the appellant prior to the commencement of works, under the terms of the Land Conveyancing and Law Reform Act 2009 to include a clear methodology for execution of the works.

### 6.2. **Applicant Response**

No response.

### 6.3. **Planning Authority Response**

- The issues raised in the appeal are a civil matter relating to the party boundary. It is considered that this civil issue is more appropriately addressed between the relevant parties and not through the Planning application process.

- The response refers to Section 34 (13) of the Planning and Development Acts 2000-2018, which states that ‘a person shall not be entitled solely by reason of a permission under this section to carry out any development’.

#### 6.4. **Observations**

None.

### 7.0 **Assessment**

7.1. I have read the appeal file and visited the appeal site. The proposed development is an extension to an existing dwelling on land that is zoned for residential development and is therefore acceptable in principle. Furthermore, minimum Development Plan standards in relation to private open space and car parking are maintained.

7.2. I consider that the main issues for consideration in the appeal are as follows:

- Impact on Adjacent Residential Property.
- Condition No. 2 of Notification to Grant Permission
- Appropriate Assessment Screening.

#### 7.3. **Impact on Adjacent Residential Property**

7.3.1. A third-party appeal has been received from an adjoining landowner. The grounds of appeal argue that it would not be possible to construct the development without damaging a shared party wall and the roof of an adjoining garage. In the event that the board is minded to grant permission, it is requested that a condition is attached to require the applicant to obtain agreement from the appellant, in relation to the works, under the terms of the Land Conveyancing and Law Reform Act 2009.

7.3.2. I am of the view that the issues raised in the appeal are civil matters and are not matters that the Board can consider. In this regard, Section 34 (13) of the Planning and Development Act states that, ‘*a person shall not be entitled solely by reason of a permission under this section to carry out any development*’. In other words, a permission under Section 34 of the Act does not imply rights under civil law and these matters need to be addressed separately. Section 5.13 of the Development

Management Guidelines (DEHLG, 2007) provides guidance on this matter, stating that *'the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts'*. The guidelines state that where in making an application, a person asserts that he or she is the owner of the land or structure in question, and there is nothing to cast doubt on this, the planning authority is not required to inquire further into the matter.

7.3.3. In making the application, the applicant has stated that she is the owner of the land in question and this is not disputed by any of the parties. I am, therefore, satisfied that the applicant has sufficient legal interest to make the application.

7.3.4. In conclusion, I am of the view that the issues raised in the appeal are civil matters that fall outside of the Planning and Development Acts and that the Board is not empowered to make a determination in relation to such matters.

#### **7.4. Condition No. 2 of Notification to Grant Permission**

7.4.1. The proposed extension by reason of its design, scale and use of materials is in keeping with the character of development in the area. Condition no. 2 of the notification to grant permission seeks to lower the ridge height of the first-floor extension by 0.2 metres below the ridge level of the main dwelling. The Planner's Report states that this would help the structure to read as an extension and that the lower ridge height would help to reduce the terracing affect in the event that the adjoining property were to seek permission for a similar extension. The Report refers to the previous use of this condition in the wider area. Given the site context and established character, I would concur with the view of the Planning Authority. The altered ridge level would distinguish between the original 'semi-detached' dwellings and later extensions over the flat roof garages, and thus would serve to maintain the established character of the area. In the event that the Board is minded to grant permission I recommend a condition to this effect.

#### **7.5. Appropriate Assessment Screening**

7.5.1. Having regard to the minor nature of the development and its location in a serviced urban area, 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

8.1.1. I recommend that permission be granted subject to the conditions set out below.

## 9.0 Reasons and Considerations

9.1.1. Having regard to the location of the site a serviced urban area and to the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Fingal Development Plan. The proposed development would, therefore, 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 proposed development shall be amended as follows:
  - (a) The ridge level of the roof of the first-floor extension shall be 0.2 metres below the ridge level of the roof of the main dwelling.

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 visual amenity.

3. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

4. 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.

5. 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.

---

Karen Kenny  
Senior Planning Inspector  
16<sup>th</sup> July 2018