



An
Bord
Pleanála

Inspector's Report ABP- 302302-18

Development	Erect detached 3-storey hotel (100 x bedrooms)
Location	Newpark, The Ward, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0285
Applicant(s)	Nicola Rutledge
Type of Application	Appeal
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Nicola Rutledge
Observer(s)	Dublin Airport Authority
Date of Site Inspection	19 th October 2018
Inspector	Karla Mc Bride

1.0 Site Location and Description

- 1.1. The appeal site is located in the Ward on the N side of Dublin and the surrounding area is predominantly rural in character with some commercial uses. The rectangular site is located on the E side of the R135 (former N2) and it is bound to the N by a detached cottage, to the S by the White House Hotel and car park, and to E by a race track and sheds. The site boundaries are defined by mature trees, hedges and fencing and there are several trees located within the site which was previously used as a pitch and putt course. There are several detached houses in the vicinity.
- 1.2. Photographs and maps in Appendix 1 describe the site and surroundings in detail.

2.0 Proposed Development

Permission is being sought to carry out revisions to a previously permitted hotel extension (F16A/0388) to facilitate turning movements and the construction of a new detached 3-storey hotel on the c.1.65ha site.

- The c.4905sq.m. building would comprise basement, ground and first floors.
- The hotel would comprise 100 bedrooms, reception, lobby, restaurant, admin offices, ancillary facilities & plant equipment.
- Vehicular access off the R135 to 100 surface car parking spaces.
- All site works, connection to existing services & landscaping.

Accompanying documents:

- Planning Statement
- Architects Report
- Traffic Impact Assessment
- Visual Impact Assessment
- Inward Noise Impact Report
- Public Safety Zone Report
- Construction & Operation Issues Related IAA Requirements
- Preliminary Construction & Waste Management Plan

- Engineering Services Report (including FRA)
- Appropriate Assessment Screening Report
- Archaeological Method Statement

3.0 Planning Authority Decision

3.1. Decision

The PA decided to refuse planning permission for 3 reasons related to:

1. Excessive density of development would erode the character and nature of the Greenbelt & **material contravention** of GB zoning objective form the site.
2. The proposed & previously permitted developments would provide a total of 200 bedrooms which would be contrary to Condition no.2 of F16A/0388 which only permitted a 100-bedroom extension to the existing White House Hotel.
3. Undesirable precedent & cumulative harm to residential amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer recommended a refusal of planning permission.

3.2.2. Other Technical Reports

Transportation: No objection subject to compliance with previous conditions.

Water Services: No objection subject to compliance with conditions.

Environment: No objection subject to compliance with conditions.

EHO: No objection subject to compliance with conditions.

Archaeology: No objection subject to compliance with conditions.

Biodiversity: No objection subject to compliance with conditions.

3.3. Prescribed Bodies

Irish Water: No objections subject to conditions.

IAA: No objections subject to conditions.

DAA: No objections subject to conditions & referred to ERM report.

3.4. Third Party Observations

None received.

4.0 Planning History

F16A/0388: Permission sought for a 3-storey extension to the existing hotel, bar & restaurant comprising 200 bedrooms and permission granted for 100 bed extension.

- Condition no.2 required the omission of several elements to ensure an appropriate density of development.
- Condition no.3 required the submission of revised proposals in relation to:
 - (a) The omission of the N hotel extension block
 - (b) Revisions to the circulatory roadway & a reduction in car parking spaces.
 - (c) A reduction in the number of bedrooms within the S extension so that the total number within the entire complex does not exceed 100.
- Condition no.4 (a) required that the existing access to the S of the development shall be used as an emergency services access only.

F04A/1470: Permission refused by ABP (PL06F.301087) for a 2-storey hotel extension to an existing building comprising 16 bedrooms (c.470sq.m.) for 1 reason related to the location of the site within a Red (Safety) Area for Dublin Airport where it is the policy of the PA to restrict development within a proposed Outer Public Safety Zone and in close proximity to a proposed Inner Public Safety Zone.

F03A/0815: permission refused for 2-storey extension to the rear of existing building comprising 32 beds (c.1,080sq.m.) for reasons related to visual impact, traffic hazard, premature pending realignment of N2, within Red Approach Zone, & inadequate environmental services.

5.0 Policy Context

5.1. Fingal County Development Plan 2017 to 2023

Zoning: site located within GB zoning objective which seeks to “Protect and provide for a greenbelt” Hotels are not listed as either permitted in principle or not permitted.

Vision: Create a rural/urban GB zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and urban areas. The role of the GB is to check unrestricted sprawl of urban areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages. The GB is attractive and multifunctional, serves the needs of both the urban & rural communities, and strengthens the links between urban & rural areas in a sustainable manner. The GB will provide opportunities for countryside access and for recreation, retain attractive landscapes, improve derelict land within and around towns, secure lands with a nature conservation interest, and retain land in agricultural use. The zoning objective will have the consequence of achieving the regeneration of undeveloped town areas by ensuring that urban development is directed towards these areas.

Greenbelt Objectives:

SS08: Strengthen GB lands by identifying opportunities for infill development and consolidation of existing towns to reduce the need to zone additional greenfield lands and ensure the preservation of strategic greenbelts between our towns and villages.

SS09: Promote development within the GBs which has a demonstrated need for such a location, and which protects and promotes the permanency of the GB, and the open and rural character of the area.

SS10: Promote public parks, outdoor sports facilities & other recreational uses within the GBs in accordance with the Green Infrastructure Strategy & open space policy.

SS11: Promote opportunities for the enhancement and protection of biodiversity and natural heritage within the GB.

Site Specific Objective (59): seeks to provide for a farmer's market, market gardening, outdoor sports facilities and associated parking facilities to complement the existing hotel, lounge/bar/restaurant and function room facilities.

Dublin Airport:

The site is located within Inner Airport Noise Zone & Outer Public Safety Zone.

DA07: seeks to actively resist new provision for residential development and other noise sensitive uses within the Inner Noise Zone.

DA13: seeks to promote appropriate land uses in the vicinity of flight paths.

DA14: seeks to review Public Safety Zones around the airport.

DA15: seeks to take account of relevant IAA publications related to the operation of & development in the & around the airport.

DA16: seeks to take account of IAA advice with regard to the effects of any development on the safety of aircraft or the safe & efficient navigation thereof.

Tourism objectives:

ED58: promote and facilitate tourism as one of the key economic pillars of the county's economy and a major generator of employment, & to support the provision of facilities such as hotels, aparthotels, hostels, cafes & visitor attractions.

Heritage:

Built Heritage: DU011-077 (Inn) nearby & several features in the vicinity

Natural Heritage: No designated sites in the vicinity

5.2. **ERM Report, Public Safety Zones, 2005**

ERM Environmental Resources Management Ireland Ltd was commissioned by the Government to investigate Public Safety Zones (PSZs) at Ireland's main airports. The purpose of PSZs is to protect the public on the ground from the small, but real possibility that an aircraft might crash in a populated area. A PSZ is used to prevent inappropriate use of land where the risk to the public is greatest. The report recommended a 2-zone protection system comprising an inner and outer PSZ.

The inner zones are located closest to the runways, the ground-area has the greatest likelihood of an aircraft accident occurring and it recommended that no new development will be permitted but that all existing developments can remain. The likelihood of an accident in the outer zones is less than in the inner zones, and future development will be permitted, subject to several restrictions. High density housing development, and the building of schools, hospitals and facilities which attract large numbers of people will not be permitted, but all existing developments can remain.

According to Table B1.1 of ANNEX B (Public Safety Zones), Holiday Accommodation \leq 100 beds per development is permitted in the Outer Safety Zone (where Holiday Accommodation comprises hotels and caravan parks). Using the Scaled Risk Integral (SRI) method, no more than about 60 persons should be exposed in the crash area (i.e. 0.5 hectare). Accounting for staff, etc., and compared with similar criterion, a maximum of 100 beds is judged appropriate.

6.0 The Appeal

6.1. First Party Appeal

Reason no.1: material contravention of GB zoning objective

- GB zoning does not prevent hotels, and uses which are neither Permitted or Not Permitted “will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and for their compliance and consistency with the policies and objectives of the Dev. Plan”.
- The proposal should therefore be assessed on its merits.
- It is in line with the GB Vision as it is demonstrating a multifunctional use for land that would otherwise be deemed derelict or have no functional use.
- The exclusion of hotels from the GB zone is not specifically stated, as in other zones (i.e. GE- General Enterprise), and the hotel is open to consideration.

Reason no.2: contrary to Condition no.2 of previous permission:

- Condition no.2 of F16A/0388 only permitted a 100-bedroom extension to the White House Hotel and not the proposed 200 bedrooms.

- Current proposal is for a separate detached 100-bedroom hotel and not an extension to the existing hotel.
- Proposal complies with all ERM Guidelines & DAA & IAA have no objections.
- No objections from other Council departments.
- Complies with Policy ED58 which seeks to promote & facilitate tourism.

Reason no.3: Undesirable precedent & harmful to residential amenity

- PA report states that there will be no adverse impacts on the visual or residential amenities of the area & that tree planting will be undertaken.
- Report refers to the Noise Impact Assessment which concludes that predicted internal noise levels will meet all required standards for airport locations.
- Given the lack of impact on visual, residential and general amenities it is difficult to understand how proposal would set an undesirable precedent.

Conclusion:

- Conflicts between the planning officer's report and the reasons for refusal.
- Fully compliant with ERM recommendations.
- Hotels are not specifically excluded GB zones.
- Specific Obj.59 allows for development which complements the existing hotel.
- Proposal shares infrastructure with previously permitted extension to hotel.
- Visually attractive addition to the area & no adverse impacts on amenity.
- Will provide accessible accommodation for nearby Dublin Enterprise Zone.

6.2. Planning Authority Response

Reason no.1:

- Planner had full and due regard to the GB zoning objective & Vision.
- The function of the GB is to provide a clear between urban & rural areas.
- Development may be permitted in certain circumstances in GB zone.
- The addition of a 100-bedroom hotel to the already permitted 100-bedroom extension to the existing hotel would be more appropriate in an urban area.

Reason no.2:

- A comparison with the previously proposed & partly permitted development shows that the changes are superficial & minimal.
- Shared services & road infrastructure together with the allusion to “additional rooms” undermine the contention that this would be a stand-alone project.
- Proposal contravenes Condition no. 2 of F16A/0388.
- Comments of DAA & IAA and contents of ERM report are noted.
- Development of additional bedspaces to support tourism should not be at the expense of the proper planning & sustainable development of the area.

Reason no.3:

- Proposal would erode the character of the GB and set an undesirable precedent for similar developments in the area.

Other issues:

- Open for Consideration does not equate to Permitted in Principle.
- A substantial & sizable hotel development would be provided in a rural area.
- Local Obj. 59 and proximity to the Dublin Enterprise Zone are not relevant.
- Suggested support of the Dublin Enterprise Zone is a new aspect which may require further details regarding traffic movements etc.

6.3. Observations – Dublin Airport Authority**Inner Airport Noise Zone:**

- Obj.DA07 seeks to strictly control development and actively resist new provision of ... noise sensitive uses within the Inner Noise Zone.
- Note the Inward Noise Assessment report & the planning history of the site (F16A/0388) and request that condition no.23 be also applied to this case.

Outer Public Safety Zone:

- Obj.DA13 seeks to promote appropriate land use patterns in the vicinity of flight paths and Obj.DA14 seeks to review Public Safety Zones & implement the policies to be determined by the Government in relation to these zones.

- Table B1.1 of ERM Report, Public Safety Zones, 2005 indicates that hotels be provided at densities of no more than 100 beds per development with no more than 60 persons exposed in crash area.

Crane Use:

- Operational crane use during construction may cause safety concerns and requires further assessment in relation to flight procedures at the Airport.
- Request a condition which requires the applicant to agree proposals for crane operation in advance of construction with DAA & IAA.

Car parking:

- Request that Condition 11 of F16A/0388 be attached to prevent the use of the hotel car park as a “park & fly” parking.

6.4. Prescribed Bodies

The proposed development would be located in close proximity to a site of archaeological interest, DU011-077 (Inn) and the appeal was circulated to the Heritage Council, Department of Culture, Heritage & the Gaeltacht and An Taisce. No responses have been received.

7.0 **Assessment**

The main issues arising in this case related to the following:

- Material contravention
- Principle of development
- Airport safety
- Other issues

7.1. **Material contravention**

The planning authority decided to refuse planning permission for the proposed development for 3 reasons and Reason no.1 stated that:

The subject site is located on lands zoned GB – Greenbelt in the Fingal Development Plan 2017-2023 and includes the vision the following “Create a rural/urban GB zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and rural areas. The role of the GB is to check unrestricted sprawl of urban areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages.” The proposed development would result in an excessive density of development and would erode the character and nature of the GB. The proposed development would therefore materially contravene the zoning objective for the site, and would be contrary to the proper planning and sustainable development of the area.

The appeal site is located within an area covered by the GB zoning objective which seeks to “Protect and provide for a greenbelt” which permanently demarcates the boundary between urban and rural areas, and hotels are not listed as a use that is either permitted in principle or not permitted within this zone. However, the site is located with an area that is also covered by Site Specific Objective (59) which seeks to “provide for a farmer’s market, market gardening, outdoor sports facilities and associated parking facilities to complement the existing hotel, lounge/bar/restaurant and function room facilities.”

Section 37 (2) (a) and (2) (b) of the Planning and Development Act, 2000 (as amended) set out the circumstances under which the Board can give overturn the decision of a planning authority when material contravention forms part of the reason for refusal.

The proposed development is not of national or regional importance; the Development Plan incorporates all relevant national planning policy and regional guidance; the policies and objectives are clearly stated in the Development Plan with respect to the Greenbelt zone and Specific Objective (59); and the pattern of planning permissions since the last Development Plan was adopted reflect current planning policy for the area. I am therefore satisfied that the current case does not represent an exemption under Section 37 (2) (b).

In the event that the Board do not concur, the merits of the proposed development will be assessed in the following sections.

7.2. Principle of development

The proposed development would be located within a rural area in north county Dublin and the surrounding area is predominantly agricultural in character. The site forms part of a larger landholding that is occupied by the White House Hotel and restaurant, a car park, race track and golf course, and the site was previously used as a pitch and putt course. Planning permission was recently granted under F16A/0388 for a 100-bedroom extension to the existing hotel.

The site and surrounding lands are covered by the GB (Greenbelt) zoning objective which seeks to “Protect and provide for a greenbelt” and hotels are not listed as uses which are either permitted in principle or not permitted. The Development Plan Vision seeks to create a zone that permanently demarcates the boundary between rural and urban areas, provide opportunities for countryside access and recreation and to retain lands in agricultural use (amongst other things). Objective SS09 seeks to promote development which has a demonstrated need for a GB location which also protects and promotes the permanency of the GB and the open and rural character of the area, whilst Objectives SS10 and SS11 seek to promote public parks, outdoor sports facilities and other recreational uses, and the protection of biodiversity and natural heritage. The site is also located within lands which are covered by Site Specific Objective (59) which seeks to provide for a “farmer’s market, market gardening, outdoor sports facilities and associated parking facilities to complement the existing hotel, lounge/ bar/ restaurant and function room facilities” at the White House Hotel.

Planning permission was previously sought for a 200-bedroom extension to the existing White House Hotel to the immediate S of the appeal site under F16A/0388. Condition no.2 only permitted a 100-bedroom extension in order to ensure an appropriate standard of development for the area. The planning permission required the omission of the N section of the proposed extension which would have occupied the current appeal site. The design and layout of the currently proposed detached 100-bedroom hotel would be similar to that of the previously omitted section under F16A/0388, except for the interconnecting portion. The proposed and permitted developments would provide for an additional 200 hotel bedrooms on lands within the GB zone at an almost identical scale to what was originally proposed under F16A/0388. This was considered to be an inappropriate density of development for the rural area and contrary the GB greenbelt zoning objective.

Given that there has been no material change in circumstances in the intervening years, the proposed development would constitute an excessive scale and density of development of GB lands when considered in-combination with the existing hotel and already permitted 100-bedroom extension. It would be inappropriate for the rural area and contrary to the GB zoning objective, Vision and objectives for greenbelt lands. It would also be incompatible with Specific Objective (59) for the site and adjoining lands which seek to provide for a much smaller scale and form of development which would complement the existing hotel and restaurant use.

Having regard to the above, I am satisfied that the proposed development, when considered in combination with existing and permitted developments in the area, would materially contravene the GB zoning objective for the site. It would also set an undesirable precedent for similar future developments in this and other GB zones in the county, which would, in turn, have an adverse impact on the amenities of the lands that the GB zoning objective seeks to protect. Furthermore, the proposed development would contravene Condition no.2 of the planning permission granted under F16A/0388 which only permitted a 100-bedroom extension to the existing White House Hotel.

7.3. Airport safety

The appeal site is located to the NW of Dublin Airport and the proposed development would be located within the Inner Airport Noise Zone and Outer Public Safety Zone. Objective DA13 of the Development Plan seeks to promote appropriate land uses in the vicinity of flight paths, Objective DA14 seeks to review Public Safety Zones around the airport and Objectives DA 15 and DA16 seek to take account of relevant IAA publications and advice in relation to development in the vicinity of the airport and aircraft safety.

The 2005 ERM Report provided guidance in relation to Public Safety Zones around airports which are used to prevent the inappropriate use of land where the risk to the public is greatest. The report recommended that all existing development should

remain but that no new development be permitted in the inner zones and that development may be permitted in the outer zones subject to restrictions. The report explicitly prohibits high density housing development, and the building of schools, hospitals and facilities which attract large numbers of people. In relation to hotel development Table B1.1 of ANNEX B, Holiday Accommodation (including hotels) ≤ 100 beds per development is permitted in the Outer Public Safety Zone, however no more than about 60 persons should be exposed in the crash area (i.e. 0.5 hectare), and a maximum of 100 beds is judged to be appropriate.

As previously stated, permission was originally sought for a 200-bedroom extension to an existing hotel under F16A/0388 and Condition no.2 only permitted a 100-bedroom extension in order to ensure an appropriate standard of development for the area. Under the current proposal, the connection between the two previously proposed sections of the 200-bedroom extension has been severed and the applicant is now seeking planning permission for a detached 100-bedroom hotel.

Notwithstanding the current application for a new standalone development, the net result would be the same in practical terms as under the previous proposal and the consequences in terms of public safety would also be the same. The combination of the permitted and proposed developments would give rise to an additional 200 bedrooms at adjoining locations within the Outer Public Safety Zone which would not be compatible with the ERM recommendations. It is also noted that the ERM report refers to bedspaces whilst the permitted extension and proposed new hotel would each contain 100 bedrooms, most of which would be double rooms with some family rooms, and a combined total in excess of 400 bedspaces would be provided.

Having regard to the above, I am satisfied that the proposed development, when considered in combination with the already permitted hotel extension, would give rise to an excessive density of development within the Outer Public Safety Zone around Dublin Airport which would be incompatible with the recommendations contained in the ERM Report which seeks to prevent the inappropriate use of land where the risk to the public is greatest. It would also be contrary to Objective DA13 of the

Development Plan which seeks to “promote appropriate land use patterns in the vicinity of the flight paths serving the Airport, having regard to the precautionary principle, based on existing and anticipated environmental and safety impacts of aircraft movements.”

7.4. **Other issues**

Design and layout: The proposed 2-storey over basement building would have a contemporary design and it would be well setback from the site boundaries. The vehicular access off the R135 would be located in the SW corner of the site via the existing entrance to the White House Hotel and car park. The design, layout, height and external finishes would be similar to the previously proposed extension to the hotel under F16A/088, except that the structure would comprise a standalone building as opposed to an extension to the existing building. The existing and proposed buildings would be located on the S and N sides of the existing entrance off the public road and they would share the previously permitted and modified access arrangements. The site and surrounding area are not covered by any sensitive heritage designations, there are no protected structures in the vicinity and there are no protected views through the site. The design and layout are considered acceptable, subject to the implementation of a landscaping and tree planting scheme, and the proposed development would not be visually obtrusive.

Residential amenity: Having regard to the low density of residential development in the surrounding area, and to the design, layout and height of the proposed building, the separation distances and relationship to the neighbouring sites, the proposed development would not have any significant adverse impacts on the residential amenities of properties in the vicinity.

Movement: Vehicular access would be directly off the R135 regional road which has been downgraded from the N2 national road. The infrastructural arrangements are similar to those proposed and permitted under F16A/088 for an extension to the White House Hotel subject to some minor amendments which are considered acceptable. The Council’s Roads Division had no objections to the proposed

arrangements subject the re-attachment of the relevant conditions from F16A/0388. Adequate car parking would be provided in line with Development Plan requirements, however a condition should be attached to ensure that the car park is not used as “Park and Fly” parking. The proposed development would not give rise to a traffic hazard or endanger the safety of other road users.

Environmental services: Drainage & water supply arrangements are acceptable.

Noise: The contents and conclusion of the applicant’s Inward Noise Impact report are noted and the proposed arrangements are considered to be acceptable.

Archaeology: There are several Recorded Monuments and sites of archaeological interest in the surrounding area and DU011-077 (Inn) is located nearby. It is therefore possible that the site has archaeological potential and the standard archaeological conditions should be attached. The contents and conclusion of the applicant’s Archaeological Method Statement report are noted.

Built heritage: No sensitive built heritage designations in immediate area.

Signage & cranes: All proposed signage details should be submitted to the planning authority for written agreement before development commences. The developer shall consult with the DAA and IIA in relation to the crane operations during the construction phase prior to works commencing.

Appropriate Assessment: The site is located a substantial distance from any European Sites. Having regard to the nature and scale of the proposed works and the absence of a direct connection between the works and any designated site, I am satisfied that Screening for Appropriate Assessment is not required. The contents and conclusions of the applicant’s AA Screening report are noted.

Environmental Impact Assessment: Having regard to the nature and scale of the proposed development and the separation distance to any sensitive location, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

8.0 Recommendations

Arising from my assessment of this appeal case I recommend that planning permission should be refused for the proposed development for the reasons and considerations set down below.

9.0 Reasons and Considerations

1. Having regard to the provisions of the Fingal County Development Plan 2017 to 2023, and to the nature, scale and location of the proposed development within an area that is covered by the GB zoning objective which seeks to “Protect and provide for a greenbelt”, the proposed development, when considered in combination with existing and permitted developments in the area, would materially contravene the GB zoning objective for the site. The proposed development would also set an undesirable precedent for similar future developments in this and other GB zones in the county, which would, in turn, have an adverse impact on the amenities of the lands that the GB zoning objective seeks to protect. Furthermore, the proposed development would contravene Condition no.2 of the planning permission granted under F16A/0388 which only permitted a 100-bedroom extension to the existing White House Hotel. The proposed development would, therefore, be contrary the proper planning and sustainable development of the area.
2. Having regard the provisions of the Fingal County Development Plan 2017 to 2023, and to the nature, scale and location of the proposed development within an area that is identified as being within the Outer Public Safety Zone for Dublin Airport, the proposed development, when considered in combination with the already permitted hotel extension to the White House Hotel, would give rise to an excessive density of development within the Outer Public Safety Zone. The proposed development would be contrary to Objective DA13 of the Development Plan which seeks to “promote appropriate land use patterns in the vicinity of the flight paths serving the Airport, having regard to the precautionary principle, based on existing and

anticipated environmental and safety impacts of aircraft movements.” The proposed development would, therefore, be contrary the proper planning and sustainable development of the area.

Karla Mc Bride, SPI

11th December 2018