



An
Bord
Pleanála

Inspector's Report ABP-303640-19

Development	Retention of existing single storey, playroom/study/home office/utility area with associated site works
Location	The Cottage, Ward Lower, The Ward, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW18B/0133
Applicant(s)	Maude Joyce
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Maude Joyce
Observer(s)	None
Date of Site Inspection	30 th April and 8 th May 2019
Inspector	Karen Kenny

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1.0 Site Location and Description

- 1.1. The site is located in the rural townland of The Ward Lower, The Ward, Co. Dublin. It is on the western side of the R135 (former N2) and to the north of the Ward Cross. The area is rural in character and lands in the immediate vicinity of the site are in agricultural use.
- 1.2. The site, with a stated area of 2,203 square metres, is enclosed by a high wall along its front boundary and by walls and planting along the northern, southern and western boundaries. The Ward River runs along the northern boundary. The site is separated internally into northern and southern sections with independent vehicular access points from the R135 and a number of structures in each section. The structure for which retention permission is sought is located centrally within the site.

2.0 Proposed Development

- 2.1. Permission is sought to retain a single storey detached structure that is described as a playroom / study / home office / utility area. The structure has a stated floor area of 67.5 square metres. It is rectangular in shape with a pitched roof over and a dashed wall finish. The submitted floorplans detail a play room and study area, a utility area, a toilet and a home office.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for 3 no. reasons. The reasons for refusal can be summarised as follows:

- (1) The planning authority is not satisfied, on the basis of the submitted information, that the development would be in compliance with the GB zoning objective and consider that it would represent haphazard and piecemeal development within the GB zone.

- (2) The planning authority is not satisfied, on the basis of the submitted information in relation to foul and surface water drainage and flood risk, that

the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution.

(3) It is considered that traffic movements associated with the development would result in a traffic hazard.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planning Officer's Report reflects the decision to refuse permission.

3.2.2. Other Technical Reports

Transport: Requests additional information.

Water Services: Insufficient information.

3.3. **Prescribed Bodies**

Irish Water: No objection.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1.1. The following recent Planning History pertains to the site.

PA Ref. FW18A/0125:

Retention of single storey playroom / study / home office / utility area with associated site works. Permission refused by the Planning Authority.

PA Ref. FW17A/0223:

Retention of single storey playroom / study / home office utility area with associated site works. Permission refused by the Planning Authority.

ABP Ref. 06F.248090 and PA Ref. FW17B/0007:

Retention of single storey playroom / study / home office / utility area with associated site works. Permission refused by the Planning Authority. The decision of the Planning Authority was subject to a first party appeal and An Board Pleanála refused permission on appeal.

PA Ref. 16/81B:

Enforcement notice in respect of two unauthorised dwellings, 1 unauthorised playroom, 1 unauthorised large storage shed, 1 unauthorised shed used as a commercial tyre sales operation and unauthorised 2m high front boundary wall.

5.0 Policy and Context

5.1. Development Plan

The Fingal County Development Plan 2017-2023 is the relevant statutory plan for the area. The following provisions are considered to be relevant:

- The site is zoned 'GB' – Greenbelt with an objective to 'protect and provide for a Greenbelt'.
- Residential development is 'permitted in principle' in this zone subject to compliance with the Rural Settlement Strategy. Persons who are deemed to meet the applicant categories set out in the Development Plan will be considered for a house in the Greenbelt zone, subject to a maximum of one incremental house per existing house (+1 for exceptional health circumstances).
- Table 12.4 of the Development Plan sets out "Design Guidelines for Rural Dwellings" addressing site assessment, siting and design, materials and detailing, boundary treatments, assess and sight lines, surface and wastewater treatment and landscaping.
- The site is located within the Dublin Airport Outer Noise Zone. Objective DA07 seeks to control inappropriate development, require noise insulation where appropriate, and to actively resist new provision for residential development in this zone.

5.2. **Natural Heritage Designations**

5.2.1. The site is not located within or directly adjacent to a Natura 2000 site.

5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal has been received against the decision of the Planning Authority to refuse permission. The grounds of appeal can be summarised as follows:

- Clarity and detail of the development could have been supplied if a request for additional information was made.
- Lack of clarity in the submitted information does not warrant a refusal.
- A valid planning application was made and refused on lack of clarification of information that was not requested by Fingal County Council.

6.2. **Planning Authority Response**

The response of the Planning Authority can be summarised as follows:

- The issues were adequately raised in the Planner's Report and the reasons for refusal remain valid.
- The current application is similar to an earlier application FW17B/0007 that was refused on appeal. No new information has been provided to address these matters.

6.3. **Observations**

None.

7.0 **Assessment**

7.1.1. Permission is sought to retain an existing single storey 'playroom / study / home office / utility' structure. I consider that the main issues in this case are as follows:

- Site Visit
- Principle of Development
- Wastewater, Surface Water and Flood Risk
- Transportation
- Appropriate Assessment

7.2. **Site Visit**

7.2.1. I have read the appeal file, all associated reports and plans and inspected the site and the surrounding area. I would draw the Boards attention to the fact that the southern section of the site was not accessible at the time of initial inspection. An Bord Pleanála contacted the applicant's agent to arrange a site visit. However, no response has been received to date. I visited the site again on 8th May 2019 and was informed that I would not be permitted to access the site. Notwithstanding the above, I am satisfied that the site inspection undertaken on 30th April 2019 in the northern section of the site and in the vicinity of the site, is sufficient to allow for the consideration of the appeal.

7.3. **Principle of Development**

7.3.1. The first reason for refusal states that the Planning Authority is not satisfied on the basis of the submitted information that the development proposed for retention would be in compliance with the zoning objective. The grounds of appeal argue that clarity and detail could have been supplied if a request for additional information had been made. I would note that the appeal submission does not include any clarity or additional detail in relation to this issue.

- 7.3.2. The structure for which retention permission is sought has a stated floor area of 67.5 square metres. It is rectangular in shape with pitched over. The submitted floorplans detail residential uses that include play room, study area, utility area, and home office.
- 7.3.3. The submitted details fail to address the purpose of the building or to demonstrate its compliance with the zoning objective for the area. The structure is of similar scale to the historic 'cottage' on the site and is not, therefore, considered to represent a subordinate or ancillary structure. I am of the view that the structure, due to its size and design, is capable of occupation as a separate residential unit. In this regard, I would note that new residential development in the Green Belt zone is limited to persons who comply with the criteria for residential development in the Green Belt zone detailed in the rural settlement strategy of the Development Plan.
- 7.3.4. The applicant has failed to demonstrate that the development is subordinate or ancillary to a principle dwelling or that it would comply with the criteria for new residential development in the Green Belt zone. On the basis of the foregoing, I recommend that permission is refused.

7.4. Wastewater, Surface Water and Flood Risk

- 7.4.1. The second reason for refusal states that the Planning Authority is not satisfied on the basis of the submitted information in relation to foul and surface water drainage and flood risk that the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The grounds of appeal argue that clarity and detail could have been supplied if a request for additional information had been made. I would note that the appeal submission does not include any clarity or additional detail in relation to these issues.
- 7.4.2. The planning application indicates that the development is served by public drainage. The Report of the Water Services Section of Fingal County Council clarify that the area is not serviced by public drainage.
- 7.4.3. There is no information on the file in relation to waste water treatment and the applicant has failed to demonstrate compliance with the EPA Code of Practice for Waste Water Treatment and Disposal for Single Dwellings (2009). Similarly, for

surface water drainage no details have been submitted and it is unclear that there are surface water drainage provisions in place within the site.

7.4.4. OPW CFRAMS Mapping indicates that the northern part of the appeal site falls within Flood Zone B. The Planning Officer's Report notes that insufficient information has been submitted to enable a full assessment in accordance with the Flood Risk Management Guidelines for Planning Authorities (2009). I would concur with this view.

7.4.5. The information submitted in relation to foul and surface water drainage and flood risk is inadequate in my view. I consider that the Board cannot be satisfied, on the basis of the submitted information, that the proposed development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. On the basis of the foregoing, I recommend that permission is refused.

7.5. **Transportation**

7.5.1. The third reason for refusal relates to traffic hazard. The grounds of appeal argue that information could have been supplied if an additional information request had been made. I would note that the appeal submission does not include any additional detail in relation to this issue.

7.5.2. There are currently two entrances into the site from the R135 a busy regional road. The southern access from which the proposed structure is accessed, is not recessed. Having regard to the design of this entrance onto a busy regional road, I consider that any additional traffic movements generated by the development would result in a traffic hazard on the R135. Having regard to the substantive reasons for refusal recommended in relation to (1) the principle of the development and (2) public health and environmental pollution, I do not consider it necessary to include a reason for refusal in relation to traffic hazard. However, should the Board be minded to grant permission it may wish to seek further details in relation to the access / egress and circulation arrangements prior to making a determination.

7.6. **Appropriate Assessment Screening**

7.6.1. There is a potential hydrological connection between the appeal site and the Malahide Estuary SAC and the Malahide Estuary SPA via the Ward Stream. The

stream adjoins the northern boundary of the appeal site and flows into the Malahide Estuary c. 10 kilometres downstream of the site.

- 7.6.2. The likelihood of impacts on European sites is remote due to the nature and scale of the development and the separation from the designated sites. However, on the basis of the information provided with the application, and in particular the lack of information in relation to effluent disposal and flood risk, the possibility of environmental pollution and impacts on water quality in the Ward Stream cannot be excluded. The potential for downstream impacts on the Malahide Estuary SAC (000205) and Malahide Estuary SPA (004025) cannot therefore be excluded. In such circumstances the Board is precluded from granting permission.

8.0 Recommendation

- 8.1. I recommend that planning permission should be REFUSED for the reasons set out below.

9.0 Reasons and Considerations

1. The site is located in a rural area that is zoned Greenbelt in the Fingal County Development Plan 2017-2023, with an objective to 'protect and provide for a greenbelt'. The Board is not satisfied on the basis of the information submitted with the planning application and in response to the appeal that the development is in compliance with the Development Plan zoning objective and that it would not represent a haphazard or piecemeal form of development within the Greenbelt zone. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The Board is not satisfied on the basis of the information submitted in relation to foul and surface water drainage and flood risk that the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Kenny

Senior Planning Inspectorate

8th May 2019