



An  
Bord  
Pleanála

## Inspector's Report ABP-303789-19

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<b>Development</b>	Permission to use the attic floor space for habitable purposes.
<b>Location</b>	26B River Valley Grove, Swords, Co Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F18B/0339
<b>Applicant(s)</b>	CQA Design & Build.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michelle Carol Lynch
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	14 <sup>th</sup> of May 2019.
<b>Inspector</b>	Karen Hamilton

## 1.0 Site Location and Description

- 1.1. The site, containing a two storey detached dwelling, is located south side of Rivervalley Grove, at the head of that cul de sac, Swords, Co. Dublin. The dwelling, recently constructed, is finished with brick and plaster and remains unoccupied. There is front and rear gardens and a large paved area for private off-street parking.
- 1.2. To the north, the site abuts the curtilage of no. 27A Rivervalley Grove, a recently-constructed two-storey house – the boundary with which is a 1.2m high wall which is capped and plastered. To the east, the site abuts Forest Road – the boundary with which is a recently-erected 1.8m high metal post & chainlink fence. To the south, the site abuts a green area to the side of no. 1 Boru Court – the boundary with which is a 2.0-2.4m high wall, which is capped and plastered. To the west, the site abuts the curtilage of no. 26A Rivervalley Grove (a large two-storey house constructed within the side garden curtilage of no. 26) – the boundary with which is a 1.8m high wall which is capped.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of :
  - Permission to use the attic floor space (31.4m<sup>2</sup>) for habitable purposes.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to 8 no. conditions of which the following are note:

C 2- The attic bedroom and en-suite shall comply in full with the Building Control Regulations for attic habitable accommodation.

C 3- The windows on the western side elevation shall be permanently fitted with obscured glazing.

C 4- The attic room shall be provided with noise insulation to an appropriate standards, having regard to the location of the site within the Outer Airport Noise Zone.

C 5- The entire premises shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations.

**Note:** Compliance with Building Control Regulations.

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

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

The report of the planner reflects the decision to grant permission and refers to the following:

- The planning permission on the site, including previous Board decisions in particular the Inspectors comments on ABP 301427-18 in relation to the intentions to extend habitable accommodation into the attic space.

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

None submitted.

### **3.3. Prescribed Bodies**

None received.

### **3.4. Third Party Observations**

One third party submission was received from the resident of the property, the appellant, to the west of the site and the issues in relation to impact on their residential amenity are addressed in the grounds of appeal.

## 4.0 Planning History

### **ABP 301427-18 (Reg Ref F18A/0035)**

Permission granted for retention of minor alterations to a house granted under Reg Ref F13A/0056 including a single storey extension to the rear (9m<sup>2</sup>) and the side of the approved single storey extension.

C 2 - The staircase/landing window, and window above it (both in the western elevation of the house) shall be in permeant obscured glazing, and the windows shall not be openable.

### **PL06F.242259 (Reg Ref F13A/0056)**

Permission granted for the construction of two detached houses.

C 2

- a) The relocated House B shall be reduced in width so that no part of the house is within 900mm of the boundary to the west.
- b) The rooflights of the rear roof profiles of Houses A and B shall be relocated in the roof profile so that the base of the window is no less than 1.2m above the floor level.
- c) The window serving the kitchen in the west elevation of House B shall be omitted.

Plans illustrate "Attic suitable for conversion at a later stage".

## 5.0 Policy and Context

### 5.1. Fingal County Council Development Plan 2017-2023.

The site is located on lands zoned 'RS' – *"To provide for residential development and protect and improve residential amenity"*.

Objective PM46 - Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Objective DA07- Strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone, and actively resist new provision for residential development and other noise sensitive uses within the Inner Noise Zone, as shown on the Development Plan maps.

## 5.2. **Natural Heritage Designations**

The site is located c. 2.5km south west of Malahide Estuary SAC (Site code 000205) and the Malahide Estuary SPA (Site code 004025).

## 6.0 **The Appeal**

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

The grounds of appeal are submitted from the resident of the property to the west of the site and the issues raised are summarised below:

- The initial application was for a three bedroom family home.
- Condition No 7 of the original permission states that the dwelling shall only be used as an individual unit.
- The house is being used as a multi-unit dwelling where four individuals have their own bedroom and bathroom and share a common room.
- There is no family bathroom.
- The dwelling allows for a very attractive investment for Airb&b, rental accommodation etc.
- Given the manner which the dwelling has been built there will be an increase in the traffic in the vicinity.
- The managers' report of the proposed development F18A/ 0035 states that the retention application will be assessed on the basis that it is a new application, this approach makes a farce of the planning process.
- The planning authority have considered that the Board previous decision, requiring the windows to remain shut, is particular onerous and have overruled this decision.

- An access gate onto the Forest Road has been locked and covered in overgrowth for the past 15 year and is not opened up onto a dangerous road. This pedestrian link causes a huge security risk to the estate.
- There are two cars deep along the access road on a regular basis and there is no space for emergency vehicles.
- The use of the site as a multi-unit will require 4 additional cars to the front of the site and cause a greater demand on services.

## 6.2. Applicant Response

None received.

## 6.3. Planning Authority Response

A response from the planning authority was received summarised as follows:

- Condition No 5 states that the entire premises shall be used as a single unit apart from such use as may be exempt development for the purposes of planning regulations.
- Should the dwelling not be used as a single dwelling unit, then it is a matter for Planning Enforcement.
- In relation to parking, the Inspectors report on 301427-18 stated there was space for 5 no cars and considered the provision for 2 was acceptable.
- The transport section has no objection to the proposal.
- There is no objection to the use of the attic room for habitable purposes.
- The Board has previously conditioned that the windows on the western elevation should be permanently fitted with obscure glazing and the dwelling used as a single unit.
- The Board had considered that the windows on the western elevation should not be openable although this is considerably onerous and the inclusion of obscure glazing is sufficient to overcome privacy concerns.

- Condition no 2 states that the attic and en-suite shall comply with building regulations and Condition no 3 requires in the inclusion of obscure glazing on this window.
- In the event the permission is upheld, it is requested that a development contribution condition is included.

#### 6.4. **Observations**

None received

#### 7.0 **Assessment**

7.1. The issues of the appeal can be dealt with under the following headings:

- Planning History
- Impact on Residential Amenity
- Appropriate Assessment

##### **Planning History**

7.2. The proposed development relates to the use of the attic floor space for habitable purposes. Permission was granted recently (301427-18, Reg Ref F18A/0035) for the retention of alterations to a house previously granted under PL06F.242259 (Reg Ref F13A/0056). I note the report of the Inspector on ABP 301427-18 states that it would appear clear from the design of the house that the applicant had intentions of extending the habitable space. The Board removed Condition No. 4, previously attached by the planning authority, which stated that *“The attic floor space shall only be used for storage/ non habitable purposes and shall not provide for any additional non habitable space. Any change to the use of this area shall be subject to the making of a new planning application.”*

7.3. Having regard to the planning history on the site, in particular 301427-18, there can be no objection to the principle of development, subject to compliance with other considerations detailed below.

## **Impact on Residential Amenity**

- 7.4. The subject site is located to the west of an existing two storey dwelling, the appellant's dwelling, No 26A, and the window, which is the subject of this retention application, is located along the west elevation. The window is fitted with obscure glazing. The subject site is located c. 3m from the edge of the appellant's dwelling and there is a small window on the first floor of the eastern elevation of the appellant's dwelling.
- 7.5. The previous permission, 301427-18, did not include the attic as part of the proposal, although included the side window. Condition No. 2 stated that the staircase/landing window, and window above it (both in the western elevation of the house), shall be with permanent obscured glazing, and the windows shall not be openable. I note the window for retention is fitted with obscure glazing although is openable. The response from the planning authority considers the use of obscure glazing will ensure the privacy of the adjoining property is retained.
- 7.6. Objective PM 46 of the development plan requires that extensions to dwellings do not negatively impact on adjoining properties. I note the location of the window for retention along the western elevation and the location of a small window on the eastern elevation of the adjoining property and having regard to the inclusion of obscure glazing I do not consider there will be a significant negative impact on the amenity of the adjoining residents. In addition, I do not consider it a necessity to restrict the use of the window to inoperable.
- 7.7. The appellant has raised the internal layout of the dwelling as an issue of concern, in particular the number of bedrooms provided with associated en-suite facilities and the absence of any family bathroom. The appellant considered the property will be used for short term letting such as Airbnb rather than a single dwelling, which will lead to the need for multiple car parking on the site and in the vicinity.
- 7.8. Condition No 5 states that the entire premises shall be used as a single dwelling unit apart from such use as may be exempt development for the purposes of the Planning and Development Regulations. I consider the terms of the previous permission and the particulars with the proposed development reasonable to prevent the use of the dwelling for short term letting such as Airbnb and I do not consider the absence of a central shared bathroom prevents the use of the building as a dwelling.



7.9. Therefore, having regard to the nature and scale of the attic space and the use of obscure glazing in the window, I do not consider the proposed development would have a significant negative impact on the residential amenity of the adjoining property.

### **Appropriate Assessment**

7.10. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, 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 the conservation objectives of any 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**

Having regard to the residential zoning, the planning history on the site, the nature and scale of the development for retention, it is considered that subject to compliance with the attached conditions, the proposed development would not have a significant negative impact on the residential amenity of the surrounding area and 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 03<sup>rd</sup> of December 2018 under appeal reference number ABP 301427-18, planning register reference number Reg Ref F18A/0035, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3. The attic room shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within the Outer Airport Noise Zone.

**Reason:** In the interest of proper planning and sustainable development and residential amenity.

4. 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.

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Karen Hamilton  
Planning Inspector

16<sup>th</sup> of May 2018