



An
Bord
Pleanála

Inspector's Report

ABP-303929-19

Development	Extensions to existing garage to form a single storey 1-bedroom dwelling house along and associated site works.
Location	Seapoint, Balbriggan, Co. Dublin
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F18A/0725
Applicant	Colm Ryan.
Type of Application	Planning Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party
Appellant	Colm Ryan.
Observers	None.
Date of Site Inspection	18 th June 2019.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1.1. The appeal site is located on the eastern side of Seapoint Road, c100m to the south of its junction with Seapoint Lane; and, c500m to the north of its junction with the R127, to the south west of Balbriggans town centre, in north County Dublin.
- 1.1.2. The irregular shaped site has a stated 0.15ha area and it contains a mainly 2-storey with a rear single storey extension detached dwelling house that has been recently extended to the side and rear. Behind the rear building and located roughly midway along the northern boundary of the site there is an existing single storey structure outbuilding of solid construction. This building contained a window opening on its western side and on its southern elevation a centrally placed door with two window openings on either side. The eastern and northern elevations were not highly visible. Immediately behind this building there were a number of timber structures and a dog enclosure.
- 1.1.3. The roadside boundary is setback from the roadside edge and contains a low solid boundary with a single entrance. This entrance is of a width that it can accommodate vehicle access and egress from the property. Between the principal façade and the roadside boundary, the front garden area accommodates off-street car parking and hard landscaping. On the opposite side of the road is the Dublin/Belfast railway line and c400m to the north west of the site is Balbriggan's train station which accommodates intercity and dart services. The site contains several boundaries but to the rear of the buildings on site the boundaries are quite low and allow for expansive views out over the coastline and the Irish Sea. The expansive rear garden area is comprised mainly of lawn.
- 1.1.4. The surrounding area has a mature residential character and it contains a wide variety of housing types including detached dwellings, semi-detached through to terraces.

2.0 Proposed Development

- 2.1. Planning permission is sought for an extension to an existing garage together with a change of use to residential to form a single one-bedroom dwelling house with new boundary fence to subdivide the existing rear garden and associated site works. The submitted documentation notes that the proposed dwelling would utilise the existing vehicular entrance serving the dwelling house referred to as 'Seapoint' onto the

Seapoint Road (L1205) to which this application relates and that the gross floor space of existing buildings is 36m² and the proposed works is 18m². Thus, the proposed development would give rise to a 54m² dwelling unit.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority **refused** planning permission for the following stated reasons:

“1. The garage structure which the applicant proposes to change the use of to a dwelling is not located wholly within the ‘RS – Residential’ zoned lands, and is instead located on lands which are partially zoned ‘HA – High Amenity’. Objective RF32 of the Fingal Development Plan 2017 – 2023 seeks to ‘permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances’. Residential development is only permitted where the applicant has established a genuine need to live in the rural area by reason of their direct involvement in a family farm or their exceptional health circumstances. The applicant has not submitted any documentation to demonstrate compliance with this objective. The proposed development would therefore contravene materially Objective RF32 of the Fingal Development Plan 2017 – 2023 and would be contrary to the proper planning and sustainable development of the area.

2. The garage structure which the applicant proposes to change the use of to a dwelling is located on lands which are partially zoned ‘HA – High Amenity’ and partially zoned ‘RS – Residential’. The subject site is therefore considered to be a transitional zone and the provisions of Objective Z04 are considered to pertain. Having regard to the location of the garage (which is proposed to change the use of to a dwelling) and that the area of private amenity space to serve the proposed dwelling is within the ‘HA’ zoned lands i.e. the more environmentally sensitive zone, permitting the proposed development would contravene materially Objective Z04 of the Fingal Development Plan 2017 – 2023 and would be contrary to the proper planning and sustainable development of the area.

3. Permitting the proposed development, would contravene materially Conditions No.’s 2, 3 and 4 attached to existing permission Reg. Ref. F99B/0793.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officers Report** is the basis of the Planning Authority's decision.

3.2.2. Other Technical Reports

- **Transportation Planning Section:** No objection.
- **Water Services:** No objection.

3.3. Prescribed Bodies

3.3.1. Irish Water: No objection.

3.4. Third Party Observations

3.4.1. The Planning Authority's received a letter of objection from an adjoining property owner. It can be summarised as follows:

- The garage structure was constructed without permission.
- Concerns are raised in relation to alleged non-compliance with previous grants of permissions.
- Part M compliance concerns. (Disability Access)
- Traffic safety concerns.
- Procedural Issues.
- Concerns raised in relation to parking and associated vehicle manoeuvring on site.

4.0 Planning History

4.1. Appeal Site

P.A. Reg. Ref. No. F18A/0061: Planning permission was **refused** for a similar development consisting of an extension to an existing garage and the change of use to residential to form a one-bedroom dwelling house alongside the subdivision of the curtilage of a detached dwelling house known as 'Seapoint' in order to provide for separate amenity spaces together with all associated site works. This application also

sought permission for a shared entrance to serve the proposed and the existing dwelling house. The three stated reasons correlate with those set out in the notification to refuse permission for this current application.

P.A. Reg. Ref. No. F12B/0126: Planning permission was **granted** for a development consisting of elevational and roof changes to the existing detached dwelling house on site.

P.A. Reg. Ref. No. F99B/0793: Planning permission was **granted** subject to condition for a development consisting of the conversion of a garage to granny flat accommodation together with a single storey extension to the rear of the existing dwelling on site.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply.
- 5.1.2. The appeal site is located on transitional zoned land with the front half of the site zoned 'RS' – Residential. The Development Plan objective for such lands is to "*provide for residential development and protect and improve residential amenity*".
- 5.1.3. The last 100m stretch of the site is subject to the zoning 'HA' - High Amenity. The stated objective of such lands is to "*protect and improve high amenity areas*" and the stated vision is to "*protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored*". In land zoned 'HA' residential development is permissible subject to demonstrating compliance with the Development Plans Rural Settlement Strategy.
- 5.1.4. In addition, Sheet No. 14 '*Green Infrastructure 1*' of the Development Plan sets out that the site is indicated as a '*Highly Sensitive Landscape*' and the northern portion of the site is indicated as Annex 1 habitat.
- 5.1.5. Section 11.4 of the Development Plan deals with the matter of transitional zonal areas and indicates that while the control standards indicate the different uses permitted in

each zone *“it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones”*.

- 5.1.6. It further states that when *“dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential areas or abutting residential development within predominantly mixed use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of residential property”*.
- 5.1.7. Objective Z04 of the Development Plan states that the Planning Authority will *“have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries”*.
- 5.1.8. Chapter 3 of the Development Plan deals residential development.

5.2. Natural Heritage Designations

- 5.2.1. The site is located c5.2km to the south of Special Protection Area: River Nanny Estuary & Shore (Site Code: 004158).

5.3. EIA Screening

- 5.3.1. Having regard to nature of the proposed development, the serviced nature of the lands, the distance between the site and lack of any connectivity to any sensitive location, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development if permitted. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required in this case.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:

- Insufficient consideration has been given to the fact that the proposed structure is in an urban area that is located within 200m of Balbriggans train station and is within Balbriggan town.
- It is not practical for the applicant in this case to demonstrate compliance with the Rural Settlement Strategy set out in the Development Plan.
- This proposal would not give rise to any negative visual amenity impacts.
- Objective RF32 was designed for rural and non-urban residential developments.
- The proposed development matches what is present within this area and it is not considered that the proposed development would contravene Objective Z04.
- Previous permissions and conditions relating to this structure should have no impact or effect on the current application.
- A number of argued precedents are cited.
- It is refuted that this structure has been used outside of members of the family.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority's response can be summarised as follows:

- The appellants submission to the Board does not alleviate issues raised by them in their reasons to refuse permission.
- P.A. Reg. Ref. No. F15A/0065; F08A/1075 and F06A/1753 are not comparable to the proposed development and the reasons as to why it is considered that this is the case is set out.
- It is requested that their decision is upheld by the Board; however, should permission be granted it is requested that a Section 48 contribution condition is included.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive planning issues arise. The issues can be dealt with under the following headings:

- Planning and Planning History.
- Principle of Development.
- Layout and Design.
- Residential Amenity.
- Access

7.1.2. The matter of Appropriate Assessment also needs to be addressed. These matters are dealt with in turn in my assessment below.

7.2. Planning and Planning History

7.2.1. Planning permission was granted subject to conditions by the Planning Authority under P.A. Reg. Ref. No. F99B/0793 for the conversion of an existing garage structure to a granny flat accommodation together with extensions to the subject dwelling. Condition No. 2 attached to the decision required that when the structure was no longer required for use as a granny flat by the applicant that it reverted to use as part of the existing dwelling. Condition No.3 attached to the decision restricted the use of the structure for residential purposes associated with the use of the existing dwelling unit and it prohibited its subdivision from the existing house by either sale, letting or otherwise. In addition to this Condition No. 4 attached to the decision restricted the use of the converted garage to a single dwelling unit apart from such use as may be exempted development for the purposes of Local Government (Planning and Development) Regulations and the use as granny flat permitted by aforementioned Condition No. 2 and 3.

7.2.2. Since this development was permitted it would appear that the property has changed ownership and at the time of my site inspection though the subject structure had a residential appearance it did not appear to be in habitable use but rather storage.

7.2.3. Under a more recent application the Planning Authority refused planning permission for a similar development to that proposed under this current application before the Board under P.A. Reg. Ref. No. F18A/0061.

- 7.2.4. This previous development was described in the public notes as comprising of the extension to an existing garage and the change of use to residential to form a single storey one-bedroom dwelling house together with the subdivision of the rear garden and all associated site works. The reasons for refusal are similar to those attached to the Planning Authority's decision for this current application. This decision was not subject to an appeal.
- 7.2.5. Based on the above, I consider that the general principal of the development is not consistent with the planning and zoning history of these lands. In particular to permit the proposed development would be contrary to the conditions attached to a previous grant of permission attached to the subject lands i.e. Conditions No.s 2, 3 and 4 of the notification to grant permission under P.A. Reg. Ref. No. F99B/0793 and that the principal issue which needs to be addressed is whether or not it would be acceptable to develop a portion of the lands which are subject to 'high amenity' land use zoning.
- 7.2.6. **Principle of the Proposed Development**
- 7.2.7. While the principle of residential development on residentially zoned land is deemed to be generally acceptable subject to safeguards the encroachment of the proposed development onto lands subject to the high amenity land use zoning needs consideration.
- 7.2.8. I am cognisant that on high amenity zoned lands that an applicant for this type of development is required to demonstrate compliance with the Rural Settlement Strategy and I further note that Objective RF32 of the Development Plan permits housing in such areas to those who have demonstrated a defined essential housing need based on their involvement in farming or in exceptional health circumstances.
- 7.2.9. It is clear from the submitted documentation on file that the applicant in this case has failed to provide any demonstration of being able to comply for a dwelling house on HA zoned land. As the high amenity land is the environmentally more sensitive to change land use zoning on these transitional lands I consider it is incumbent upon the applicant to demonstrate compliance with the Rural Settlement Strategy set out in the Development. Moreover, such a demonstration is in my view a requirement under Objective Z04 which deals specifically with the matter of proposals on transitional zone lands.
- 7.2.10. In this case it would appear that the proposed development in terms of built form and designated private amenity space would encroach onto HA zoned lands. Therefore,

to permit the proposed development in the absence of demonstrating compliance with the Rural Settlement Strategy as set out in the Development Plan and by virtue Objective RF32 and Objective Z04 would be contrary to the local planning policy provisions. Thus, it would also be contrary to the proper planning and sustainable development of the area. I consider that this, in itself, is reason to refuse permission for the development being sought under this application.

7.3. Layout and Design

- 7.3.1. I raise a concern that the proposed layout and placement of the dwelling house, whilst changing the use of an existing building and extending it in order to create a modest single storey one bedroom dwelling house would result in backland development that would be at odds with the staggered principal and rear building line of properties that front onto the Seapoint Road and that back onto the adjoining shingle beach coastline.
- 7.3.2. While I note that to the north west of the site there are dwellings at a similar lateral separation distance to the coastline these have frontages onto public roads, lanes and/or cul-de-sacs. I therefore consider that the proposed development would result in backland development that would be out of character with existing residential development fronting onto this stretch of Seapoint Road and the Dublin/Belfast railway line.
- 7.3.3. I also raise a concern that while the dwelling unit proposed would add to the variety and mix of dwelling types in this area it is visually at odds with the 2-storey character of its streetscape scene and it is devoid of any meaningful address to the public road.

7.4. Residential Amenity

- 7.4.1. Table 12.1 of the Development Plan sets out minimum quantitative standards for residential accommodation. For a one bedroom/two-person unit, the relevant standards are as follows:
- Minimum gross floor area: 50m².
 - Main living room: 11m².
 - Aggregate living area: 23m².
 - Aggregate bedroom area: 11.4m².
 - Storage area: 2.5m².

The proposed dwelling complies with these standards and is above the minimum 50m² unit size for this type of dwelling. In addition, to the rear of the property there is ample private open space amenity indicated. However, of concern there is no cross sections showing the finished floor-to-ceiling height; notwithstanding, it should be possible to meet the minimum requirements set out under the current Building Regulations within the structures diminutive built form; however, should the Board be minded to grant permission it could take a precautionary approach and deal with this particular concern by way of an appropriately worded condition.

7.4.2. In relation to the residential amenity impact when one has regard to the location of the existing house within a built-up suburban area, I consider that the extensions to a single storey garage building with a maximum ridge height of 4.1 resulting in a modest sized single storey dwelling unit with a stated gross floor space of 54m² would be acceptable in terms of its impact on existing established residential amenity of properties in its vicinity. In that it would not give rise to any undue levels of nuisance, overlooking, overshadowing, loss of privacy and the like. In relation to standard amenity concerns such as those arising from nuisances associated with the construction phase through to boundary treatments, should the Board be minded to grant permission, I consider that these can be satisfactorily dealt with by way of an appropriate worded conditions.

7.4.3. Based on my assessment above, I am satisfied that the development would not result in unacceptable residential amenity impacts on adjoining properties and would be in accordance with the proper planning as well as sustainable development of the area.

7.5. Access

7.5.1. Should the Board be minded to grant permission for the development sought I recommend that they attach a condition requiring a revised layout to address potential pedestrian and vehicular conflicts as per the Planning Authority's Transportation Planning Section in their report.

7.6. Appropriate Assessment

7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and the proximity to the nearest European 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 permission be **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. It is considered that the proposed development which consists of, but is not limited to, the extension of an existing garage and its change of use to a one bedroomed residential dwelling unit would contravene Condition No.s 2, 3 and 4 attached to a previous grant of planning permission P.A. Reg. Ref. No. F99B/0793 which required that when this garage structure was no longer required for use as a granny flat by the applicant that its use revert to use as part of the existing dwelling unit; that the use of this garage structure be restricted to a residential use directly associated with the use of the existing dwelling unit and in this regard that it should not be subdivided from the existing dwelling unit by sale, letting or otherwise; and, the entire premises be used as a single storey dwelling unit apart from such use as may exempted development and for the use as granny flat permitted by Condition No.s 2 and 3. Permitting the proposed development would result in an undesirable precedent in terms of non-compliance with key planning conditions. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the site's location on transitional zoned land where the environmentally sensitive land use is the 'HA' zoning objective, a land use that under the Fingal Development Plan, 2017 to 2013, restricts the provision of such developments to applicants with a defined rural housing need set out as those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances. I consider this requirement reasonable having regard to the high sensitivity of HA zoned land to change. The applicants have not submitted any substantive evidence to demonstrate compliance with these requirements. Furthermore, the applicants already have a dwelling on the site and have not demonstrated a need for two additional dwellings within this parcel of land

to which this application relates and therefore cannot be considered to have a rural generated housing need. The proposed development would therefore be contrary to the provisions of Fingal Development Plan, 2017 to 2023, and would be contrary to the proper planning and sustainable development of the area.

3. The site of the proposed development is partially located in an area designated as an Area of High Amenity in the Fingal Development Plan, 2017-2023. The zoning objective for the area, as expressed in the Development Plan, is to protect and improve high amenity areas. This objective is considered reasonable. The proposed development, which is not related to the amenity potential of the area or the use of the area for agriculture would contravene that development objective indicated in the Development Plan for the use primarily of the area for the purpose of protecting and improving high amenity areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

26th June 2019