



An  
Bord  
Pleanála

## Inspector's Report ABP-305944-19

<b>Development</b>	Retention of existing single storey, playroom / study / home office / utility area with associated site works.
<b>Location</b>	The Cottage, Ward Lower, The Ward, Co. Dublin, D11 CP44
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW19B/0103
<b>Applicant</b>	Maude Joyce
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Refuse permission (3 no. reasons)
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Maude Joyce
<b>Date of Site Inspection</b>	28/01/2020
<b>Inspector</b>	Conor McGrath

## **1.0 Site Location and Description**

- 1.1. The appeal site is located on the western side of the R135 (formerly the N2) approximately 500m north of the roundabout at the Ward Cross / junction with the R121. The area is rural in character and surrounding lands are in agricultural use. The site as outlined in red has an area of approx. 0.2ha and is bounded by a high wall and timber gates along its front boundary and by walls and planting along the northern, southern and western boundaries. The Ward River runs west – east along the northern boundary of the site and is culverted under the regional road at Coolatrath Bridge.
- 1.2. The overall site is subdivided internally into northern and southern sections with separate vehicular access from the R135. A tyre sales business operates from the northern section. The structure the subject of this application for retention lies within the southern part of the site adjoining the internal boundary wall.
- 1.3. I was unable to access the site at time of inspection, however, I refer the Board to the attached photographs and the previous appeal cases relating to this site.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the retention of an existing single storey, playroom / study / home office / utility area with associated site works. The floor area of the structure is 67.5-sq.m. The submitted floorplans detail a play room and study area, a utility area, a toilet and a home office.
- 2.2. There are velux window on the southern and northern roof slopes which are not indicated on the submitted drawings. I refer to the inspector's comments on the accommodation contained in the report prepared in respect of PL06F.248409 in this regard.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to refuse permission for the proposed development for three reasons 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 Greenbelt 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. The application does not provide satisfactory information regarding access, egress, internal transport and parking arrangements and the proposed development would endanger public safety by reason of a traffic hazard.

### 3.2. Planning Authority Reports

- 3.2.1. **Planning Reports:** No material differences between current application or in the policy context from that refused under FW19B/0081. There is a history of planning enforcement on the site. No details or rationale for the proposed development are provided. The area is not served by public drainage. No water drainage details submitted. The site is partly located within Flood Zone B and no assessment has been submitted.

#### 3.2.2. Other Technical Reports

Water Services: Insufficient information on foul and surface water drainage. A Flood Risk Assessment is required.

Roads Transportation: Parking arrangements and turning movements are not clear. There are two entrances onto the regional road. It is development plan policy to restrict unnecessary new accesses. Greater set-back from the road edge should

be provided. 90m sightlines are available. Clarification of the nature of the uses on the site is required.

## 4.0 Planning History

There have been a number of previous planning applications and appeals on these lands, including the following appeal case:

**PA ref. FW18B/0133      ABP ref. ABP-303640-19**

The planning authority decision to refuse permission for retention of existing single storey playroom/study/home office/utility area with associated site works, was upheld on appeal. The reasons for refusal were:

1. The Board was not satisfied, on the basis of the information submitted, that the development proposed for retention 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.
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 proposed for retention would not be prejudicial to public health or pose an unacceptable risk of environmental pollution.

Permission to retain this structure was also refused in the following cases:

- PA Ref. FW19B/0081,
- PA Ref. FW18A/0125,
- PA Ref. FW17A/0223 &
- PA Ref. FW17B/0007 / ABP Ref. 06F.248409.

The reasons for refusal in these cases reflect those of the planning authority in this current case. The planning report also refers to enforcement activity on the site.

PA Ref. 16/81B:      Enforcement notice in respect of two unauthorised dwellings, 1 unauthorised playroom, 1 unauthorised storage shed, 1 unauthorised shed used as a commercial tyre sales operation and unauthorised 2m high front boundary wall.

## 5.0 Policy Context

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

The site is located within an area zoned 'GB' – Greenbelt with an objective to 'protect and provide for a Greenbelt'.

Vision: Create a rural/urban Greenbelt zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and urban areas. The role of the Greenbelt 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 Greenbelt is attractive and multifunctional, serves the needs of both the urban and rural communities, and strengthens the links between urban and rural areas in a sustainable manner. The Greenbelt 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.

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.

Lands to the north of the north of the Ward River are zoned RU – Rural.

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 and require noise insulation where appropriate in this zone.

## **5.2. Natural Heritage Designations**

The site is not located within or directly adjacent to any Natura 2000 site or other site designated domestically for nature conservations purpose. The Ward River to the north, flows to the Broadmeadow / Malahide Estuary, approx. 9.5km east of the site.

## **5.3. EIA Screening**

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**

The first party appeal refers to four reasons for refusal which appear to relate to a previous planning case. Notwithstanding this issue, the reasons referenced in the appeal reflect those raised in the planning authority decision in this case.

The appeal argues that a lack of clarity does not warrant a refusal of permission and that further information could have been requested by the planning authority if required.

### **6.2. Planning Authority Response**

No further comment.

## **7.0 Assessment**

- 7.1. Planning permission is sought to retain an existing structure and associated site works on these lands. It is not clear what associated site works are included in the

application. I note the extensive planning history relating to this site and in particular to the retention of the subject structure. Since the last decision by the Board on this site in May 2019 (ABP-303640-19), there has been no change to the nature of development for which permission for retention is sought or to the planning policy context. No additional information has been submitted with the application or appeal. While the appellants argue that additional information could have been sought, I note that the absence of such information was integral to previous refusals of permission on this site and there was no onus on the planning authority to request same in this case.

- 7.2. The site is located within an area zoned for Greenbelt uses in the current development plan for the area. No information has been provided to satisfy the Board that the development to be retained is in compliance with the Development Plan zoning objective for this Greenbelt area, or that it would not represent a haphazard or piecemeal form of development within the Greenbelt zone. The previous findings of the Board in this regard remain valid.
- 7.3. In the absence of any information in relation to the treatment and disposal of wastewater arising from the subject structure and other development on the site, and having regard to the proximity of the site to the Ward River, the Board cannot be satisfied that the development to be retained would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. Similarly, with regard to the disposal of surface water and location of the northern part of the site within the flood risk zone of the Ward River, the Board cannot be satisfied that the proposed development would not be at risk of flooding and therefore prejudicial to public health. The previous findings of the Board in this regard remain valid.
- 7.4. The third planning authority reason for refusal relates to traffic hazard. I note that adequate sightlines are achievable at this location and that the set-back of entrance gates from the road edge could be increased, in accordance with the requirements of the Roads and Transportation Dept. I consider that in respect of the use stated in the application, there would be sufficient space within the site to accommodate the safe parking and movement of vehicles. Having regard to the issues raised above in relation to the nature of development proposed within this greenbelt zone, however, I consider that greater clarity on the nature of existing and proposed uses on the site would be required to fully determine this matter. Having regard to the substantive

issues identified above, I do not consider it necessary to include a reason for refusal relating to creation of a traffic hazard.

## **8.0 Appropriate Assessment Screening**

- 8.1. As noted above, the Ward River provides a potential hydrological connection between the appeal site and the Malahide Estuary SAC (000205) and the Malahide Estuary SPA (004025) approx. 9.5km to the east.
- 8.2. Having regard to the nature and scale of development the subject of this application, the likelihood of significant impacts on the conservation objectives of these European sites is considered to be low. Having regard to the lack of information available in relation to the treatment and disposal of wastewater, however, such water quality impacts cannot be excluded.
- 8.3. The potential for downstream impacts on the Malahide Estuary SAC (000205) and Malahide Estuary SPA (004025) cannot be excluded and in such circumstances the Board would be precluded from granting permission.

## **9.0 Recommendation**

- 9.1. That the decision of the planning authority be upheld and that permission be refused for the proposed development of the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

1. The site is located in a rural area that is zoned as 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 proposed for retention 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 proposed for retention 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 proposed for retention would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

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Conor McGrath

Senior Planning Inspector

29/01/2020