



An
Bord
Pleanála

Inspector's Report ABP 306429-20

Development	Pre fabricated dwelling, garden, future erection of porch and internal modifications to house.
Location	14 Chapel Street, Balbriggan, Co.Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F19A/0507.
Applicant	Sharon Byrne.
Type of Application	Retention Permission & Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant	Sharon Byrne.
Observer	None.
Date of Site Inspection	14 th March 2020.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1 The application site is located on the southern side of Chapel Street within Balbriggan town centre. No. 14 Chapel Street forms part of a terrace of houses, some of which are in use as commercial premises. To the rear of the site is Mill Race housing scheme and a sliver of open space associated with this development. High walls that enclose No. 14 Chapel Street bound the site. A low timber fence separates the application site from the remainder of the rear area serving no. 14.
- 1.2 The relevant structure is a prefabricated single storey structures erected to the rear of a commercial property. A path and an amenity space are in place and a low fence separates the 'residential' element from the bin area associated with the commercial business operating at No. 14 Chapel Street. The only means of access to the structure is via a No. 14 Chapel Street, a commercial business operated by the applicant (hair salon).

2.0 Proposed Development

- 2.1 Permission for retention of prefabricated dwelling. Permission for future erection of porch and internal modifications.

Existing gfa: 70sq.m

Proposed gfa: 3 sq.m

Site Area: 0.0137 hectares.

3.0 Planning Authority Decision

3.1 Decision

Refuse permission for the following **3** reasons:

1. *The subject site is within the 'MC' zoning objective under the Fingal Development Plan 2017-2023, the objective of which is to 'protect, provide for and/or improve major town centre facilities in the Fingal Development Plan. The proposed development does not accord with Objective DMS24 of the Fingal Development Plan 2017-2023 in relation to minimum room widths. The proposed dwelling is served solely by an area of amenity space to the front which is significantly substandard in terms of quantum and is overlooked by adjoining property. There is no private amenity space to the rear of the dwelling. The proposal would provide an unacceptable level of amenity space for residents therefore contravene materially Objective DMS24 and Objective DMS87 of the Fingal Development Plan and would be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the restricted size/configuration of the site, the access arrangement to serve the proposed dwelling and the nature and location of the amenity space to serve the proposed dwelling. It is considered that the proposed development would constitute overdevelopment and would seriously injure the amenities of and depreciate the value of property in the vicinity.*
3. *The proposed dwelling is not served by an individual access, with only pedestrian access being provided through an existing commercial property. The proposal does not allow for any access for emergency services. Consequently, the access arrangement to serve the proposed development would represent a dis-amenity to the occupants of both the dwelling and host property, would result in emergency service being unable to access the proposed dwelling and would therefore be contrary to the proper planning and sustainable development of the area.*

3.2 Planning Authority Reports

3.2.1 Planning Report

This formed the basis of the Planning Authority's decision. The main issues considered related to design and scale, access and overdevelopment of the site and non compliance with Objective DMS24 and DMS87.

Appropriate Assessment screening concluded that a Stage 2 appropriate assessment was not required.

3.2.2 Other Technical Reports

Transportation Planning. Recommendation to refuse permission on the grounds of access arrangements (or lack of) for emergency services.

Water Services. No objection subject to conditions

3.3 Prescribed Bodies

Irish Water. No objection subject to conditions.

3.4 Third Party Observations

None.

4.0 Planning History

F18A/0529 refers to a 2018 decision to refuse permission for retention of the prefabricated dwelling for the following reasons:

- 1. The subject is within the 'MC' zoning objective under the Fingal Development Plan 2017-2023, the objective of which is to 'protect, provide for and/or improve major town centre facilities' in the Fingal Development Plan. The proposed dwelling does not accord with Objective DMS24 of the Fingal Development Plan 2017-2023 in relation to the overall floor area of the dwelling, minimum bedroom floor areas and the provision of dedicated storage. The proposed dwelling is only served by an area of amenity space to the front which is overlooked by adjoining property and there is no private amenity space to the rear of the dwelling therefore the proposal does not accord with Objective DMS87 of the Fingal Development Plan 2017-2023 and permitted same would therefore contravene materially objective DMS24 of the Fingal Development Plan and would be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the restricted size/configuration of the site, the access arrangements to serve the proposed dwelling, the significant shortfall in terms of minimum internal floor areas, the absence of dedicated storage and the nature and location of the amenity space to serve the proposed dwelling*

it is considered that the proposed development would seriously injure the amenities of and depreciate the value of property in the vicinity and permitting same would be contrary to the 'MC' zoning objective for the area, 'protect, provide for and/or improve major town centre facilities.

- 3. The proposed dwelling is not served by an individual access with only pedestrian access being provided through an existing commercial property. The proposal does not allow for any access for emergency services. Consequently, the access arrangements to serve the proposed development would represent a dis-amenity to the occupants of both the dwelling and host property, would result in emergency services being unable to access the proposed dwelling and would therefore be contrary to the proper planning and sustainable development of the area.*

Planning Enforcement file open in relation to the development to be retained.

F05/1043 refers to a 2005 grant of permission for the demolition of existing rear kitchen annex and change of use of existing living accommodation to a retail unit to front and a one bedroom apartment to the rear at ground floor level and a two storey extension at rear to form part of a proposed two bedroom apartment at first floor level. This was partially implemented.

F04A/0422 refers to a 2004 decision to refuse permission for a development similar to the 2005 application.

5.0 Policy Context

5.1 Project Ireland 2040 - National Planning Framework. This includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2 Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031

The RSES including the **Dublin Metropolitan Area Strategic Plan (MASP)** was adopted on the 3rd of May 2019.

Contains a strategic plan and investment framework to shape the development of the region.

5.3 Sustainable Residential Development in Urban Areas (DoEHLG 2009)

Section 5.8 (i) refers to Infill residential development and that potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area.

5.4 Fingal County Development Plan 2017-2023.

The site is located on lands zoned MC which has an objective to *protect, provide for and/or improve major town centre facilities.*

The Development Plan contains policies and objectives relating to land use, residential development, parking etc. Policies and objectives of note in this instance include:

Objective DMS24 which refers to residential internal floor area and storage requirements.

Objective DMS87 refers to private amenity space requirements. 4 bed require a minimum of 75sq.m.

Section 12.4 sets out Design Criteria for Residential Development

Objective DMS39 refers to infill development should respect the height and massing of existing residential units and that it should retain the character of the area, including features such as walls, pillars, etc.

Infill, Corner and Backland Sites

The development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be considered for this type of development.

Objective PM44 *Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*

Objective PM45 *Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.*

5.5 Natural Heritage Designations

None of relevance.

5.6 EIA Screening

Having regard to the nature and scale of the proposed development, consisting of the retention of a pre-fabricated dwelling and permission for extension and alterations to same on a serviced urban site, 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 seeks to address the planning authority's reasons for refusal of permission and is summarised as follows:

- Residential development is permitted under MC zoning.
- The principle of a residential development to the rear of No.14 with access via No. 14 was deemed acceptable under the 2005 planning application.
- Alterations are proposed on foot of the 2018 refusal. The number of bedrooms reduced, internal dimensions, etc.
- Adequate private amenity space (76sq.m) is provided. Reference to a drafting error relating to the red line boundary.
- Overlooking is not an issue.
- It does not constitute overdevelopment.
- No objections on file from the CFO or HSE.

- Enforcement notice served on the applicant. If retention permission is refused, the applicant and her family will be homeless.
- Willing to accept a temporary (5 year permission).

6.2. Planning Authority Response

The Board is referred to the original planner's report.

6.3 Observations

None.

7.0 Assessment

The main issues in this appeal are those raised by the first party in the grounds of appeal which seek to address the planning authority's decision to refuse permission and I am satisfied that no other substantive issues arise. I note that there is a degree of overlap in the planning authority's reason for refusal and I propose to address them by issue rather than as three separate reasons for refusal. The issue of appropriate assessment also needs to be addressed. These are as follows:

- Principle of Development
- Design and Residential Amenity.
- Appropriate Assessment.

7.1 Principle of Development

The principle of residential development on lands zoned MC is permitted in principle as per the land use matrix contained in the Development Plan. I have examined the relevant objective and policies in the current Fingal Development Plan and national guidance and I consider that the principle of residential development at this location is acceptable subject to compliance with the relevant development management requirements and standards set out in the current Development Plan and national guidance.

7.2 Design and Residential Amenity

- 7.2.1 Retention permission is sought for a detached structure (gfa of c. 70sq.m) comprising of 4 bedrooms and living accommodation in the rear garden of No. 14 Chapel Street. 87sq.m is required for a 4 bed house under Objective DMS24 of the current Fingal Development Plan. I note the current proposal seeks to reduce the number of bedrooms and carry out internal modifications to address room sizes. Permission is also sought for a c.3 sq.m porch that would increase the overall gfa to the minimum 73sq.m that is required for a 3 bed dwelling.
- 7.2.2 The Planning Authority's reasons for refusal make reference to the substandard internal living arrangements and non-compliance with objective DMS24 as set out in the Development Plan. I acknowledge that the applicant has outlined that she proposes to reduced the number of bedrooms from 4 to 3 as part of this application and carry out internal modifications to increase room sizes. And while I may sympathise with the applicant's housing circumstances I do not consider that the proposed modifications are sufficient to address the substandard nature of the accommodation to be retained and the poor living environment for its occupiers.
- 7.2.3 The internal layout and form is compact with narrow internal spaces and at present consist of 4 bedrooms. I note the changes proposed are an attempt to comply with the quantitative standards for internal room sizes and overall gfa for a 3 bed unit. The internal spaces are not conducive to a high quality living environment for its occupants. Notwithstanding the proposal for internal modifications to increase room sizes and a token increase by 3sq.m (porch) to achieve the required 73sq.m for a 3 bed unit. I have serious concerns that the internal living areas will be further reduced when specifications are fully worked out on site.
- 7.2.4 The applicant in the grounds of appeal has rebutted the planning authority's reasons for refusal relating to private amenity space and has outlined that the proposal complies with all the minimum standards and parameter required as

set out the Development Plan. I note that the applicant has also referenced a 'drafting' error relating to the location of the red line boundary.

- 7.2.5 It is my view that the proposed amenity space is substandard, a token area is provided to the front of the structure to be retained is c. 39sq.m with limited functionality. I have concerns that this is not conducive to high quality private open space as is required under Objective DMS87. I consider the quality, quantity and location of private open space proposed is substandard and would constitute overdevelopment of this confined site which would be detrimental to the residential amenities of its occupiers.
- 7.2.6 The structure to be retained is c.14.88m long and c.6m wide. It occupies a substantial portion of the rear portion of the site associated with No. 14 Chapel Street which has a maximum length of 36.3m long and maximum width of c. 6.6m. There is a path and a small amenity space laid out. I consider the prefabricated structure to be retained by virtue of its footprint, location and scale is overly dominant in terms of scale and is out of context with the existing built environment. I consider that the structure to be retained terms of design, mass and siting would constitute a substandard piecemeal development and at variance with the predominant pattern of development in the area
- 7.2.7 In relation to the access arrangements off the public road via a commercial premises I consider this an unacceptable and substandard arrangement. The requirement to pass through a business to access a separate residential property is not conducive to an appropriate living environment for the occupiers of the residential unit. It also raises concerns for access by emergency services.
- 7.2.8 Regarding matter of precedent, it should be noted that each planning application is assessed on its own merits, having regard to the relevant planning considerations and site context.
- 7.2.9 On balance I consider the development to be retained and extended, a detached prefabricated structure used as a residence, by reason of its length, scale, siting and means of access would constitute a substandard piecemeal development that would be at variance with the predominant pattern of development in the

area. Its internal form and layout would constitute a substandard living environment for the occupiers of the structure. Coupled with poorly designed and inadequate amenity space would result in a substandard form of residential development to serve its occupants. The proposal would be contrary to national and local policies which seek to deliver attractive and desirable housing options in appropriate locations, would set an undesirable future precedent and as such would be contrary to the proper planning and sustainable development of the area.

7.2 Appropriate Assessment

7.2.1 Having regard to the nature of the development to be retained (and proposed) and the location of the site in a fully serviced built up urban area, 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

I recommend that permission for retention and permission for extension and alterations should be refused for the reasons and consideration set out hereunder.

9.0 Reasons and Considerations

1. It is considered that the development to be retained and extended, a detached prefabricated structure used as a residence, by reason of its length, scale, siting and means of access would constitute a substandard piecemeal development that would be at variance with the predominant pattern of development in the area. Its internal form and layout would constitute a substandard living environment for the occupiers of the structure. Coupled with poorly designed and inadequate amenity space would result in a substandard form of residential development to serve its occupants. The proposal would be contrary to national and local policies which seek to deliver attractive and desirable housing options in appropriate

locations, would set an undesirable future precedent and as such would be contrary to the proper planning and sustainable development of the area.

Dáire McDevitt
Planning Inspector

15th March 2020