



An
Bord
Pleanála

Inspector's Report

ABP-307495-20

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, D11 CP44
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW20B/0034
Applicant(s)	Maude Joyce.
Type of Application	Retention.
Planning Authority Decision	Refuse retention permission.
Type of Appeal	First Party v's Refusal.
Appellant(s)	Maude Joyce.
Observer(s)	Dublin Airport Authority.
Date of Site Inspection	22 nd of October 2020.
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of the R135 to the 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.
- 1.2. The site 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.
- 1.3. 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 for which retention permission is sought lies within the southern part of the site adjoining the internal boundary wall.
- 1.4. Access to the site was restricted at the time of site inspection. The structure for which retention permission is sought is visible behind the existing boundary wall from the R135 as illustrated within the attached presentation documentation. The appeal site has an extensive planning history, and in this regard I refer to presentation document and report prepared in respect of PL06F.248409 which includes additional site photographs.

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 playroom and study area, a utility area, a toilet and a home office.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council issued a decision to refuse permission for the proposed development in accordance with the following 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. On the basis of the information submitted the planning authority is not satisfied the development proposed for retention would be in compliance with the Development Plan zoning objective. Furthermore it is considered the proposed development for retention would represent a haphazard and piecemeal development within the Greenbelt zone. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The planning authority 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 or be subject to flood risk. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. It is considered the proposal does not provide satisfactory details regarding site access and egress, internal transport and parking arrangements and would therefore give rise to traffic hazard and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Insufficient information has been submitted to enable a full assessment of the application, however given the nature of the proposal, sensitivity of the site within the Green Belt it is considered that the application should be refused.
- A summary of the planning history of the site is provided and reference is made to the 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.

- Reference is made to the observations of the Transportation planning section. Insufficient information in relation to internal site layout, access and egress, parking arrangements and vehicular movements. Proposal could result in conflict between pedestrian and road users.
- No material differences between current application or in the policy context from that refused under FW19B/0103 therefore no alternative conclusions could be reached.

3.2.2. Other Technical Reports

Water Services: Insufficient Information

3.3. Prescribed Bodies

Irish Water: No objection subject to condition

3.4. Third Party Observations

None.

4.0 Planning History

The appeal site has an extensive planning history.

PA Ref. FW19B/0103, ABP Ref. ABP- 305944-19

Retention permission refused by An Bord Pleanala in February 2020 for retention of existing single storey playroom/study/home office/utility area with associated site works in accordance with the following 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.

PA Ref. FW18B/0133, ABP Ref. 303640-19

Retention permission refused by An Bord Pleanála in May 2019 for retention of existing single storey playroom/study/home office/utility area with associated site works in accordance with the reasons and considerations relating to compliance with greenbelt zoning objective and lack of information provided relating to drainage and flood risk as cited under ABP- 305944-19.

Fingal County Council/An Bord Pleanála issued decisions to refuse to retain the structure in the following cases:

- PA Ref. FW19B/0081- July 2019
- PA Ref. FW18A/0125 – October 2018
- PA Ref. FW17A/0223 – December 2017
- PA Ref. FW17B/0007 / ABP Ref. 06F.248409. – September 2017

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'*.

The following vision is set out within the Development Plan for Greenbelt zoned lands:

"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.

Other Mapped Objectives

The zoning map illustrates the GDA Cycle Network Route along the R135 in the vicinity of the site. Objective MT14 of the Development Plan outlines that the Council will work in cooperation with the NTA and adjoining Local Authorities to implement the Greater Dublin Area Cycle Network Plan subject to detailed engineering design

and the mitigation measures presented in the SEA and Natura Impact Statement accompanying the NTA Plan.

The Dublin Airport Noise Zone Map adopted as Variation no. 1 of the Fingal County Development Plan 2017-2023 illustrates the appeal site within Noise Zone B. Objective DA07 seeks to control inappropriate development and require noise insulation where appropriate in this zone. The Development Plan sets out the following guidance in respect of development within Zone B:

“To manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure noise insulation is incorporated within the development.

Noise sensitive development in this zone is less suitable from a noise perspective than in Zone C. A noise assessment must be undertaken in order to demonstrate good acoustic design has been followed.

Appropriate well-designed noise insulation measures must be incorporated into the development in order to meet relevant internal noise guidelines.

An external amenity area noise assessment must be undertaken where external amenity space is intrinsic to the developments design. This assessment should make specific consideration of the acoustic environment within those spaces as required so that they can be enjoyed as intended. Ideally, noise levels in external amenity spaces should be designed to achieve the lowest practicable noise levels.

Applicants must seek expert advice”.

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. However, 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

None.

6.3. Observations

An Observation on the appeal has been received by Dublin Airport Authority. The following provides a summary of the issues raised.

- The appeal site is located in Noise Zone C. Policy DA07 of the Fingal County Development Plan seeks to strictly control provision of new residential development and other noise sensitive uses in zones B and C. A request for further information/condition is recommended which addresses the following:
 - Existing and predicted noise environment of the site be fully addressed with consideration for future airport growth.
 - Applicant shall demonstrate that internal noise levels appropriate for habitable rooms can be achieved.
 - Appropriate noise mitigation measures should be proposed by the applicant and implemented in accordance with the requirements of the Fingal County Development Plan 2017-2023.

6.4. Further Responses

A noise assessment has been submitted on behalf of the applicant which addresses the points raised within the submission on the application by the DAA. The following provides a summary of the issues raised:

- Baseline noise surveys were undertaken. The dominant noise source at this location is from traffic on the M2 and R112 and aircraft movements. Levels identified were 54 dBA Laeq to 71 dBA Laeq – during Daytime and Night-time levels between 45dBA Laeq to 64d BA Laeq. were identified.
- Noise levels on site are below those defined by the noise zone contour lines.
- The report addresses the future potential noise sources associated with the Northern Parallel Runway. The operation of the runway is considered to marginally increase noise levels across the site and an overall day time noise level of 60dBA is assumed. Night-time noise levels are not expected to change significantly as the permission for the Northern Parallel Runway restricts operations to daytime hours only.
- Primary path for noise intrusion is typically as a result of glazing construction, external doors and ventilation paths. It is stated that the glazing specification will provide sound insulation for the units, ventilation will be in accordance with Part F of the Building Regulations and the external wall construction is likely a block work construction with thermal insulation and plaster. The roof construction will comprise interlocking tiles, attic space with thermal insulation, timber joists and plasterboard ceiling.
- Based on the above construction methodology noise levels within the units are identified as complying with criteria set out within BS8233 for acceptable internal noise levels.
- The report concludes that the construction of the dwelling will provide adequate sound insulation performance to provide acceptable internal noise levels. It is stated that neither the residential amenity of the dwelling or the health of the occupants will be negatively affected due to noise intrusion.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, I consider that the main issues in this appeal are as follows:

- Planning History,
- Compliance with Zoning Objective,
- Surface Water, Wastewater and Flood Risk
- Access and Transportation
- Noise
- Appropriate Assessment

7.2. Planning History

7.2.1. Planning permission is sought to retain an existing structure and associated site works on these lands. As detailed in Section 4 of this report, the appeal site has an extensive planning history with the most recent decision relating to a decision of An Bord Pleanála to refuse permission for the retention of the structure under ABP ref 305944-19 in February 2020.

7.2.2. There has been no material change to the planning policy context pertaining to the site in the interim period. No additional information is provided within the first party appeal to address any of the reasons for refusal cited. The reasons for refusal are considered in turn as follows.

7.3. Compliance with Greenbelt Zoning Objective

7.3.1. The site is zoned for Greenbelt purposes within the existing Fingal County Development Plan 2017-2022 with an objective to “protect and provide for a Greenbelt’. The planning authority’s first reason for refusal relates to compliance of the proposal with the GB zoning objective.

7.3.2. Insufficient information is provided within the application in relation to the existing use of the building or demonstrate its compliance with the zoning objective for the area. I concur with the finding of previous Inspector’s reports prepared in respect of the development that 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. Having regard to the size and design of the structure I consider it capable of occupation as a separate residential unit. I furthermore note the reference in the noise report submitted in response the observation on the appeal by Dublin Airport Authority to the provision of bedrooms within the structure which are not identified within the submitted floor plans.

- 7.3.3. 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. Compliance with this criteria is not addressed within the application.
- 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.
- 7.3.5. The compatibility of the proposal with the greenbelt zoning objective was raised as a reason for refusal in all previous applications. No effort has been made by the applicant to provide a response to this issue within the current application or appeal.
- 7.3.6. 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. I therefore recommend that permission is refused on this basis.

7.4. Surface Water, Wastewater and Flood Risk

- 7.4.1. Fingal County Council's second reason for refusal relates to information deficiencies in relation to wastewater, surface water and flood risk. A case is made within the first party appeal that clarity and detail could have been supplied if a request for additional information had been made. The first party appeal submission does not include any clarity or additional detail in relation to these issues.
- 7.4.2. The Water Services Department report which accompanies the decision of Fingal County Council to refuse retention permission for the proposal details that the site is not served by public drainage and insufficient information is provided in respect of compliance of the existing on site waste water treatment system/septic tanks system

with the EPA Code of Practice for Waste Water Treatment and Disposal for Single Dwellings. 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 which runs to the north of the site, 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.

7.4.3. Similarly, with regard to the disposal of surface water and location of the northern part of the site within Flood Risk Zone B the Ward River as identified within the Strategic Flood Risk Assessment, the Board cannot be satisfied that the proposed development would not be at risk of flooding and therefore prejudicial to public health.

7.4.4. Having regard to information deficiencies in the application in relation to foul, surface water drainage and flood risk I consider the previous findings of the Board in this regard remain valid. I recommend that permission is refused on this basis.

7.5. Access and Transportation

7.5.1. The planning authority's third reason for refusal relates to traffic hazard. At present there are two no. entrance points to the site from the R135. Access to the structure is provided via the southern entrance to the site. This entrance opens directly onto the R135 as illustrated on the attached presentation document.

7.5.2. I consider that adequate sightlines could be achievable to facilitate access to the site and consider that there would be sufficient space within the site to accommodate the safe parking and movement of vehicles. I consider that further clarity on the nature of existing and proposed uses on the site would be required to fully determine transportation relating matters in the instance that the principle of the proposal was considered acceptable.

7.5.3. However, having regard to the substantive issues identified in relation to the principle of the proposal and public health/environmental pollution in Sections 7.3 and 7.4 above, I do not consider it necessary to include a reason for refusal relating to creation of a traffic hazard.

7.6. Noise

- 7.6.1. The Dublin Airport Noise Zone Map adopted as Variation no. 1 of the Fingal County Development Plan 2017-2023 illustrates the appeal site within Noise Zone B. Objective DA07 seeks to control inappropriate development and require noise insulation where appropriate in this zone. Detailed guidance for development within noise zone B is set out within the Development Plan.
- 7.6.2. An observation on the appeal was received from the DAA which recommended further information be requested/condition be imposed in relation to noise mitigation measures within the development.
- 7.6.3. A noise report is submitted in response to the observation which details that noise mitigation measures will be incorporated with the roofing, glazing, wall construction and windows. It is concluded that the construction of the dwelling will provide adequate sound insulation performance to provide acceptable internal noise levels. It is stated that neither the residential amenity of the dwelling or the health of the occupants will be negatively affected due to noise intrusion.
- 7.6.4. On review of the noise report I note that the subject application relates to retention of an existing structure. At the outset, the use of the structure is not clear. Reference is included within the report to bedrooms within the structure which is not in accordance with the development description of the floor plans submitted in conjunction with the application.
- 7.6.5. While noise mitigation measures are identified such as specifications for windows, roofing and wall construction it is not clear if such measures are in place in the structure. I note the guidance set out within Variation no. 1 of the Development Plan for the scope of noise assessments which outlines that an external amenity area noise assessment must be undertaken where external amenity space is intrinsic to the developments design. This is not addressed within the study. In addition, no details of the author of the report are provided.
- 7.6.6. I consider that further clarity on the nature of existing uses on the site and noise mitigation measures incorporated in the structure would be required to fully determine/assess noise relating matters in the instance that the principle of the proposal was considered acceptable. However, having regard to the substantive issues identified in relation to the principle of the proposal and public

health/environmental pollution in Sections 7.3 and 7.4 above, and the planning history of the site I do not consider it necessary to include a reason for refusal relating to insufficient information relating to noise impact.

7.7. Appropriate Assessment Screening

- 7.7.1. The Ward River runs to the north of the appeal site. 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.
- 7.7.2. 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.
- 7.7.3. 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.

8.0 Recommendation

- 8.1. Retention permission is refused for the development in accordance with the following reasons and considerations.

9.0 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.

Stephanie Farrington
Senior Planning Inspector

23rd of October 2020