



An  
Bord  
Pleanála

## Inspector's Report ABP-307771-20

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<b>Development</b>	Construction of a single storey extension to rear of detached domestic garage for recreational purposes.
<b>Location</b>	Kelman, Burrow Road, Portrane, Co. Dublin, K36 CH74
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F20B/0084
<b>Applicant(s)</b>	Adrienne Moylan & David O'Hanlon
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Adrienne Moylan & David O'Hanlon
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29th September 2020.
<b>Inspector</b>	Elaine Sullivan

## 1.0 Site Location and Description

- 1.1. The subject site is located on the northern end of the Donabate Peninsula, which sits between Rogerstown Estuary to the west and Dublin Bay to the east. It has a stated area of 0.23ha and is located on the eastern side of Burrow Road.
- 1.2. The site has been informally sub-divided in sections by hedges and trees. A dormer bungalow with a single storey garage of 38m<sup>2</sup> to the side and rear, is positioned on the northern section of the site, and the southern section comprises an open grassed area. The site is well screened from the road with trees and hedges and a large vehicular gate further restricts views into the site.
- 1.3. The main vehicular access to the site is from Burrow Road. However, a laneway from Porter's Lane runs along the rear of the site and provides access to the subject site and the adjoining sites to the north and south. This laneway is secured with a gate in close proximity to the public road and has been partially surfaced. It has the appearance of being used infrequently.

## 2.0 Proposed Development

- 2.1. The application is for permission for the following;
  - The construction of a single storey extension of 68m<sup>2</sup> to the rear of an existing single storey garage with a floor area of 38m<sup>2</sup>.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was refused by the Planning Authority for the following reason;

1. The proposed detached extended garage structure by virtue of its size and scale, its design, its floor area and its standalone rear garden location is not considered to be ancillary to the use of the dwelling and is not commensurate with the size of the subject site. The proposed development would therefore materially contravene Objective Z06 of the Fingal Development Plan 20107-

2023. Furthermore, having regard to the size and scale of the proposal it is considered to be out of character with the pattern of development in this coastal estuarine area, and granting permission for the proposal would set an undesirable precedent for this type of extension.

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

#### 3.2.1. Planning Reports

The recommendation to refuse permission in the Planning Officer's report reflects the decision of the Planning Authority. The report concluded the following;

- The proposed extended garage, by virtue of its size and scale, its floor area and its detached location in the rear garden cannot be considered ancillary to the use of the dwelling house.
- The proposal would therefore contravene Objective Z06 of the Fingal Development Plan 2017-2023.
- The proposed development is considered to be out of character with the pattern of development in the estuarine area.

#### 3.2.2. Other Technical Reports

- Water Services Department – No objection subject to conditions.

### 3.3. **Prescribed Bodies**

- No responses received.

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

- None received.

## 4.0 **Planning History**

**F05B/0540** – Planning permission granted by the Local Authority on the 29<sup>th</sup> September 2005 for a single storey extension of 67.7m<sup>2</sup> to the rear of existing domestic garage, (32.7m<sup>2</sup>) with velux roof lights to the rear.

**F02A/0081** – Planning permission granted by the Local Authority on the 9<sup>th</sup> May 2002 for minor alterations to bungalow previously approved under F01A/0066.

**F01A/0066** – Planning permission granted by the Local Authority on the 2<sup>nd</sup> July 2001 for the erection of a bungalow and garage with waste water treatment system.

## 5.0 Policy Context

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

#### 5.1.1. Land Use Zoning

The land use zoning for the site is RU- Rural; the objective of which is to ‘Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage’.

#### 5.1.2. Policies & Objectives

**Chapter 2 – Core Strategy – Objective SS18** - Ensure development in Portrane is sensitively designed and respects the unique character and visual amenities of the area, taking account of the ecological sensitivity of qualifying features of nearby European Sites surrounding The Burrow at Portrane.

**Chapter 4- Urban Fingal - Objective Portrane 5** – Ensure the sensitive estuarine area of The Burrow is adequately protected and that any proposed development is subject to environmental assessment including Screening for Appropriate Assessment.

**Chapter 11.6 – Ancillary Uses - Objective Z06** – Ensure that developments ancillary to the parent use of a site are considered on their merits.

### 5.2. Natural Heritage Designations

No designations apply to the subject site. However, the site is just 200m from the Rogerstown Estuary SAC, & SPA.

Rogerstown Estuary is also a Proposed NHA.

## **The Appeal**

### **5.3. Grounds of Appeal**

- The exact same development was previously permitted by the Local Authority in September 2005, (F05B,0540) and no issues were raised regarding the size, scale, floor area or location at that time.
- The need for ancillary domestic structures to be subservient to the primary dwelling in size and scale is derived from a concern about visual impact. If there is no visual impact, and the structure is clearly ancillary to the primary dwelling then size and scale, of itself, should not be a primary concern.
- The size of the site is large and clearly has the capacity to absorb the proposed development.
- The proposal does not contravene Objective Z06, which is a specific objective relating to the land use zoning matrix only, and the Council acted in error by including reference to this objective in the reason for refusal.
- The site, by reason of its size and screening with trees and hedges, has the capacity to comfortably absorb the proposed development without any visual impact or impact on the residential amenity of adjoining properties.

### **5.4. Planning Authority Response**

The Planning Authority had no further comments to make.

## **6.0 Assessment**

6.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Use and Scale of the Proposal
- Impact on Amenity.

- Appropriate Assessment

## 6.2. Principle of Development

The subject site is located in an area zoned RU- Rural; the objective of which is to 'Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'. Residential development is listed as 'permitted in principle' within the zoning. The proposed development is for the extension of a garage, which is ancillary to the main residential use on the site. Therefore, the proposal is acceptable within the land use zoning.

## 6.3. Use and Scale of the Proposal

The Planning Officer's report concluded that by virtue of its size and scale that the proposal could not be considered to be ancillary to the use of the dwelling and was contrary to Objective Z06. This objective seeks to '*Ensure that developments ancillary to the parent use of a site are considered on their merits*', and is not, in my view, sufficiently specific so as to justify the use of the term 'materially contravene' in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

Having assessed the site and the details on file, it is my opinion that the proposal is ancillary to the main house and therefore can be assessed on its merits.

The existing house on the site has a footprint of 239m<sup>2</sup> when measured from the Site Layout Plan. Should the proposed extension be constructed, this would provide a footprint of 104m<sup>2</sup> for the garage. The height of the new and existing structure is shown as 4.9m which is also lower than the existing house. It is my opinion, therefore, that the proposed development would be clearly subordinate and ancillary to the main house.

On the occasion of the site inspection, the existing garage was full to capacity with goods and equipment for uses connected with the main residential use. The site is large and clearly requires a lot of equipment to maintain it. The proposed extension would allow for the storage of additional bulky equipment which is infrequently used by the household. I am satisfied that the use of the proposed structure would be for storage for equipment and goods that are ancillary to the main residential use.

It is noted that a development of the same scale and design was previously granted on the site under an earlier Development Plan.

#### 6.4. Impact on Amenity

The proposed development would be situated to the rear of the site and would not be clearly visible from the public road or from the adjoining sites. I am satisfied that given the scale and extent of the site, the distance from adjoining properties and the existing screening in place that the proposed development would not have any undue negative impacts on the amenity of the existing house or the adjoining properties.

#### 6.5. Drainage

There is an existing waste water treatment system in place on the site. Given the nature and scale of the proposed development, it would not have a significant impact on the capacity of the existing system.

It is proposed to dispose of surface water generated by the development through a soakpit, details of which were not submitted. Given the nature and scale of the proposed development, I am satisfied subject to appropriate conditions such as prevention of discharge of surface water outside of the site, the proposed would be satisfactory with regard to drainage.

The Fingal Development Plan Strategic Flood Risk Assessment, (SFRA) identifies the Burrow area on the Donabate Peninsula as at risk from climate change related tidal flooding and it is recommended that further studies be carried out to determine the requirements for flood defences.

The Local Authority Water Services Department noted the location of the site and determined that a site specific flood risk assessment was not required as the development was a relatively minor extension. However, it was recommended that the finished floor level be a minimum of 4.00m AOD.

It is proposed to align the extension with the existing finished floor level of the garage at +98.45m. As the structure will be used for storage, I consider this approach to be reasonable.

#### 6.6. Appropriate Assessment

The appeal site is neither within nor immediately abutting any European site. However, the site overlooks, and is in proximity to Rogerstown Estuary, which is a designated SAC and SPA.

This SAC is separated from the site by Burrow Road and approximately 200m of scrub land. There is no direct link between the SAC and the appeal site.

- 6.7. Having regard to the minor nature of the development, the absence of a pathway to and the separation distance to any European site, no Appropriate Assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **7.0 Recommendation**

- 7.1. Having reviewed the information contained in the appeal and examined the subject site, I am satisfied that the proposed development is ancillary to the existing dwelling, and, when assessed on its merits under the relevant policies and objectives of the FCC Development Plan, would not result in any undue negative impacts on the existing amenity of the subject site or the adjoining properties within this rural area.
- 7.2. I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations:

## **8.0 Reasons and Considerations**

- 8.1. Having regard to the nature and scale of the proposed development, it is considered to be ancillary to the main residential use and would not result in any negative impact on the amenity of the site or the adjoining sites.
- 8.2. It is also considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with Objective Z06 and the policies and objectives of the Fingal County Council Development Plan 2017-2023 and would not seriously injure the visual or residential amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 9.0 Conditions

1.	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing structure in respect of colour and texture.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to garage / storage use (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
4.	<p>Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>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</p>

	<p>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.</p> <p><b>Reason:</b> 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.</p>
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Elaine Sullivan  
Planning Inspector

7<sup>th</sup> October 2020