



An
Bord
Pleanála

Inspector's Report

ABP-307795-20

Development	Construction of dwelling in the rear garden of the existing dwelling.
Location	50 Selskar Avenue, Skerries, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0155
Applicant(s)	Kevin McGee.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Kevin McGee.
Observer(s)	Gerard and Yvonne McGuinn.
Date of Site Inspection	12 th of November 2020.
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site is located of a garden to the side/rear of the dwelling at no. 50 and 50A Selskar Avenue, Skerries, Co. Dublin. The site is bound to the south west by the Barnageeragh Distributor Road and to the north east by 51 Selskar Avenue.
- 1.2. Access to the property is currently provided via a side gate. The site has a stated area of 0.041 ha and is roughly triangular in shape. Existing site boundaries include a block wall to the north and south.

2.0 Proposed Development

- 2.1. The proposed development comprises a new single storey two-bedroom dwelling in the rear garden of the existing dwelling at no. 50 Selskar Avenue, Skerries.
- 2.2. The dwelling has an internal floor area of c. 80 sq.m. and comprises 2 no. double bedrooms and an open plan kitchen/living area. The dwelling has a maximum height of 4.1m and finishes include a napp render brick for the external walls.
- 2.3. The property is set back c.1.2m from the north eastern site boundary and a minimum of 1.3m to the south west. The proposed dwelling is set back 2.5m from a new wall which separates the dwelling from the host property.
- 2.4. The dwelling will be served by a new vehicular entrance to Selskar Avenue and 2 no. on-curtilage car parking spaces are proposed. The development also includes landscaping, boundary treatments, SuDS drainage and all ancillary works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council issued a decision to refuse permission for the development in accordance with the following reasons and considerations:

1. The subject site is within the 'RS' zoning objective under the Fingal Development Plan, 2017 – 2023, the objective of which is 'to provide for residential development and protect and improve residential amenity.' The

proposed development by virtue of the constrained nature of the site, the poor level of amenity which would be afforded to the occupants of the dwelling (given the relationship of the proposal to site boundaries) and the remoteness of the car parking to serve the proposed dwelling results in a proposal which would constitute overdevelopment, would seriously injure the amenities of future residents and would be contrary to the 'RS' zoning objective for the area, 'to provide for residential development and protect and improve residential amenity'.

2. The subject development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area, would seriously injure the amenities and depreciate the value of property in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Residential use is permitted in principle on lands zoned for RS purposes.
- The development accords with the development management requirements of Objectives DMS24 and DMS87 which relate to internal room widths for dwellings and private amenity space.
- Concerns in relation to the residential amenity of the dwelling in terms of light and circuitous route to car parking. Development represents overdevelopment of the site.
- Scale and design of the dwelling is considered acceptable.
- Development would be contrary to the RS zoning objective pertaining to the site.
- The design and layout of the proposal is similar to that refused by Fingal County Council under PA Ref F19A/0236. Reasons for refusal have not been overcome.

3.2.2. Other Technical Reports

Transportation Planning Section: no objection subject to conditions.

Water Services Section: no objection subject to condition. Identifies that minimum required separation distance of 3m between the site and the proposed soakaway cannot be achieved. Soakaway shall be redesigned or omitted and a revised proposal shall be submitted.

3.3. **Prescribed Bodies**

Irish Water: Request for further information recommended in relation to provision of a 3m separation distance between the development and existing, 150mm diameter watermain along the Barnageeragh Road, details of proposed water supply to be identified and foul drainage details.

3.4. **Third Party Observations**

A submission on the application was received from the occupant of the adjoining property. Issues raised included the following:

- Impact of the proposal on residential amenity of no. 51,
- Development oversails property,
- No Construction Management Plan,
- Concerns relating to proposed parking arrangement,
- Overdevelopment of site,
- Development does not meet Development Plan standards,
- Discrepancies in application drawings.

4.0 **Planning History**

The following planning history for the site is of relevance.

PA Ref F19A/0236 planning permission refused in July 2019 for a new single storey 2-bedroom dwelling in the rear garden, off street parking and associated site works.

The reasons for refusal cited were consistent with those detailed in the current case.

PA Ref F94A/0378 planning permission granted in August 1994 for subdivision of existing house into two dwellings and internal alterations.

PA Ref F93B/0042 Retention permission granted by Fingal County Council in March 1994 for garage conversion, porch infill, additional windows and alterations.

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

- 5.1.1. The site is located within the Skerries Development Boundary and zoned Objective RS *“to provide for residential development and protect and improve residential amenity”*. The vision is to ensure that any new development in existing residential areas has a minimal impact on residential amenity.
- 5.1.2. Residential is listed as a use which is permitted in principle on lands zoned for RS purposes.
- 5.1.3. The site is identified as a highly sensitive landscape within Sheet No. 14 Green Infrastructure Map.
- 5.1.4. The following Development Management objectives are of relevance:
- DMS24: minimum requirements for internal room widths, room areas and storage provision.
 - DMS87: 3-bedroom house or less have a minimum open space of 60 sq.m. private open space.
 - Separation distances - A minimum standard of 22 metres separation between directly opposing rear first floor windows shall be observed, normally resulting in a minimum rear garden depth of 11 metres.
- 5.1.5. Objective PM44 relates directly to the proposed development, stating that in relation to backland development that it is an Objective to *“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.”*

- 5.1.6. Objective PM45 seeks to promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.
- 5.1.7. Objective DMS30 seeks to *“Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents”*.

5.2. Natural Heritage Designations

5.2.1. The following designated sites are located within 2km of the appeal site:

- Natural Heritage Areas: Skerries Islands NHA
- Special Protection Areas: Skerries Islands SPA

5.3. EIA Screening

5.3.1. Having regard to the limited nature and scale of the proposed development it is considered that 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

A first party appeal by Hughes Planning and Development Consultants has been submitted on behalf of the applicant. The following grounds of appeal are set out:

- The proposal overcomes the reasons for refusal cited under PA Ref F19A/0236.
- The development of an underutilised, infill, corner and backland sites in residential areas is generally encouraged.
- The proposal is in accordance with the quantitative standards set out within the Fingal County Development Plan.

- The proposal complies with the RSES and Sustainable Residential Development in Urban Areas guidance.
- The proposal will not give rise to any undue impacts on adjacent residential amenities.
- Proposed car parking spaces are located within the site curtilage and no objection to the siting of the car parking spaces has been raised by the Transportation Planning Section.
- The proposed dwelling is single storey no issues of overshadowing of adjoining properties arise. No issues of overlooking arises from the property.
- The dwelling has been designed to maximise optimal solar gain.
- The dwelling has been designed to be visually unobtrusive.

6.2. Planning Authority Response

- No further comments. Requests An Bord Pleanala to uphold the decision of the planning authority.

6.3. Observations

An observation on the appeal was received from Gerard and Yvonne McGuinn at no. 51 Selskar Avenue, Skerries. The following provides a summary of the issues raised:

- Requests Fingal County Council decision to refuse permission be upheld.
- Fingal County Council refused similar development under PA Ref: F19A/0236.
- Proposal is contrary to the zoning objective and Development Management Standards set out within the Fingal County Development Plan. Development contrary to guidance set out within the departmental guidelines “Sustainable Residential Development in Urban Areas”.
- Proposed design negatively impacts on residential, visual and private amenities enjoyed at no. 51 Selskar Avenue.
- Layout and design of the proposed development is overbearing and negatively affects the visual amenity at the rear of the property.

- The overhanging roof is 600 mm from the common boundary wall. The 1.2m dimension as indicated on the site layout plan is misleading and not representative of the actual proximity to our property.
- Height of boundary wall adjoining the appeal site ranges from 1.6 to 1.8m the proposal is greater than 2.5m with the overall height of the roof rising to 4.1m. The proposed dwelling borders effectively 75% of the length of the rear garden. The development would be dominant and aberrant due to proximity, height and location and would be contrary to proper planning and sustainable development of the area.
- There are 2 no. existing properties at the appeal site. No. 50 and 50A. The proposal would result in 99 sq.m. of private open space for the 2no. properties which is below the open space standards set out within the Objective DMS86 of the Fingal County Development Plan. A total of 135 sq.m. would be required.
- Siting of car parking spaces could not be considered to be within the curtilage. Confined nature of parking would restrict access.
- No evidence submitted within the application documentation or appeal of how the proposal complies with the requirements of DMS30 which relates to compliance with BRE guidance on access to sunlight and daylight.
- The Sustainable Residential Development Guidelines mention infill development in the context of underutilised land. Constrained site is fully utilised as a family garden.
- Concerns relating to impact on adjoining residential amenity in terms of overshadowing of garden. Proposal would devalue the property at no. 51 and would impact on the residential; amenity of current and future residents at no. 50 and 50A.
- Safety concerns associated with no. 51. Access to the garden of no. 51 would be facilitated by flat roof.
- Proposal would represent an overdevelopment of the site. Development would be out of character with the existing residential expansion in the area and set an undesirable precedent.

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:

- Principle of Development
- Design and Layout
- Impact on Residential Amenity
- Impact on Residential Amenity of Adjoining Dwellings
- Access and Car Parking
- Site Services
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The RS zoning objective pertaining to the site seeks *“to provide for residential development and protect and improve residential amenity”* as set out in the Fingal County Development Plan 2017-2023. Residential use is listed as a use which is permitted in principle and Objective PM44 promotes backland development in existing residential areas.

7.2.2. The principle of the proposal can be considered subject to the protection and improvement of residential amenity in accordance with the site’s RS zoning objective.

7.3. Design and Layout

7.3.1. The development, comprises the construction of a single storey 2 bed dwelling with a gross floor area of 80sq.m. The dwelling has a maximum height of c.4.1m.

7.3.2. An alternative design option is illustrated on Drawing no. 10-05-2019 submitted in conjunction with the appeal response which illustrate the provision of an additional flat roof window to serve bedroom no. 1.

7.3.3. In terms of scale, the dwelling meets the minimum requirements in terms of room widths and areas as set out within the Objective DMS24 of the County Development

Plan. While storage areas are not identified, sufficient space is provided within the layout for its provision. Private amenity open space of 60 sq.m. is provided in accordance with the requirements of DMS87.

- 7.3.4. The proposed finish includes a combination of napp. plaster and select brick with a standing seam metal roof. I have no objection to the proposed materials. The scale and design of the proposal is acceptable.
- 7.3.5. I note the location of the site within a highly sensitive landscape as illustrated within Green Infrastructure Map Sheet no. 14 of the Fingal County Development Plan. The contextual elevations illustrate that the property will not be visible from Selskar Avenue. Having regard to the existing boundary treatment I do not consider that the property would form a prominent feature when viewed from Barnageeragh Road.

7.4. Impact on Residential Amenity

- 7.4.1. Fingal County Council's first reason for refusal raises concern in relation to the residential amenity afforded to the occupants of the proposed property having regard to the constrained nature of the site, the poor level of amenity which would be afforded to the occupants of the dwelling in relation to access to light (given the relationship of the proposal to site boundaries) and the remoteness of the proposed car parking to serve the dwelling. The reason for refusal outlines that the proposal would result in an overdevelopment of the site.
- 7.4.2. The appeal site is triangular in shape and has a stated area of 0.041ha. Existing site boundaries include a block wall ranging in height from 1.6m to 1.8m to the north east. This boundary is currently planted. The proposed dwelling is set back 1.2m from this wall. To the south the site is enclosed by an extensive tree line and a block wall along Barnageeragh Road. The minimum separation distance of the dwelling from this boundary is 1.3m. The proposed site boundaries include a 1.8m high boundary wall to the west separating the proposed residential unit from existing properties on site.
- 7.4.3. I note the requirements of Objective DMS30 of the Fingal County Development Plan which seeks to ensure that all new residential dwellings comply with the BRE guidelines in relation to access to Sunlight and Daylight. A case is made within the first party appeal that the proposed dwelling has been designed to maximise optimal solar gain.

- 7.4.4. In this regard I note the orientation of the dwelling with living spaces and kitchen orientated to the south and east. A revised layout is submitted in conjunction with the appeal response (Drawing no.18-123-PL-03) which includes an additional roof window in bedroom no. 1 to address the specific concerns raised within the planner's report which informs the decision of the planning authority to refuse permission for the development. I consider the revisions sufficiently address the concerns relating to the access to light as raised within the planning authority's decision.
- 7.4.5. The planning authority's reason for refusal also refers to the distance of the proposed car parking spaces to the residential dwelling and concerns relating to residential amenity are raised in this regard. However, on review of the proposal I have no concerns in principle in relation to the siting of the proposed car parking spaces.
- 7.4.6. While I acknowledge that the proposed parking spaces are removed from the dwelling, I note that the parking spaces are provided within the curtilage of the site and will not result in overspill onto the adjoining road network. I do not consider that the siting of the car parking spaces would impact on the residential amenity of future occupants of the dwelling.
- 7.4.7. As stated in Section 7.3, the proposed dwelling meets the minimum residential standards set out within the Development Plan. Private open space to serve the dwelling is also provided in accordance with development plan guidance and the orientation of the dwelling would maximise solar gain. I have no concerns in relation to the residential amenity of the proposed property in this regard.

7.5. Impact on Residential Amenity of adjoining Dwellings

- 7.5.1. Fingal County Council's second reason for refusal outlines that the proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area, would seriously injure the amenities and depreciate the value of property in the vicinity. I note the RS zoning objective pertaining to the site in this regard which seeks to both provide for and protect residential amenity.

Impact on no. 51 Selskar Avenue

- 7.5.2. The impact of the proposal on the residential amenity of no. 51 Selskar Avenue is raised within the observation on the appeal. Concerns raised relate to the overbearing and overshadowing impact of the proposed residential unit on the adjoining property and a case is made that the proposal will result in a devaluation of the residential amenity of the property.
- 7.5.3. No. 51 Selskar Avenue is located to the north east of the appeal site. The proposed dwelling is a single storey property and no issues of overlooking arise with the property at no. 51. Having regard to the height of the property and existing nature of the boundary with no 51 which includes extensive planting I do not envisage there to be significant overshadowing or overbearing impact.

Impact on no. 50 Selskar Avenue

- 7.5.4. The impact of the proposal on the amenity of the host property is also of relevance. The planning application and appeal documentation refer to this as a single residential unit i.e. no. 50 Selskar Avenue and outlines that private open space of 99 sq.m. is provided in accordance with the requirements of Objective DMS87. I have no objection to the quantum of private open space provided on the basis of the details provided within the application.
- 7.5.5. On review of the planning history I note that planning permission was granted for 2 no. houses on site under PA Ref: F94A/0378. Details of development permitted under PA Ref F94A/0378 are not available. 2 no. addresses on the site are identified on Eircode.ie and this point is also raised within the observation on the appeal.
- 7.5.6. In accordance with the private open space requirements set out within DMS87 of the Fingal County Development Plan a minimum of 135 sq.m. of private open space would be required to serve 2 no. residential units.
- 7.5.7. The application drawings indicate that private open space serving the properties would be reduced to 99 sq.m. to accommodate the proposal. However, I note that this calculation appears to exclude the portion of open space to the west of the property. On-site inspection I consider this space to be usable and on the basis of its inclusion the shortfall in overall open space would be minimal i.e. 10-15sq.m. I do not

consider this shortfall to be so significant that it would impact on the overall residential amenity of the property.

7.6. Access and Car Parking

- 7.6.1. Access to the site is proposed from Selskar Avenue via a proposed new entrance positioned to the south of the existing vehicular access to no. 50.
- 7.6.2. No objection to the creation of a vehicular entrance to the property is raised within the Transportation Planning Sections report subject to conditions including the provision of a low front boundary wall adjacent to the footpath between the proposed vehicular entrance and the dividing boundary of the existing dwelling. I similarly have no objection in principle to the proposed access arrangements.
- 7.6.3. The proposed development includes the provision of 2 no. car parking spaces to serve the dwelling. The quantum of parking is in accordance with the requirements set out within Table 12.8 of the Fingal County Development Plan. I note the reference to “in curtilage” within Table 12.8 of the Fingal County Development Plan. The proposed parking spaces are located within the curtilage of the appeal site on the proposed entrance laneway at the entrance to the dwelling from Selskar Road.
- 7.6.4. Concerns relating to the remoteness of the proposed car parking spaces to serve the dwelling are raised within the planning authority’s first reason for refusal. However, on review of the proposal I have no concerns in principle in relation to the siting of the proposed car parking spaces. While I acknowledge that the proposed parking spaces are removed from the dwelling, I note that the parking spaces are provided within the curtilage of the site and will not result in overspill onto the adjoining road network.

7.7. Site Services

Surface Water

- 7.7.1. Surface water drainage proposals include the provision of a soakaway device within the site. A percolation test BRE Digest 365 Report is submitted in conjunction with the application.
- 7.7.2. The Water Services report raises concern in relation to the location of the soakaway due to non-adherence of minimum separation distance of 3m from site boundaries and site constraints. A condition is recommended for the omission or relocation of

the proposed soakaway. In the instance of the omission of the soakaway, the report recommends that details shall be subject to written agreement with the planning authority. I consider that such matters could be addressed via condition in the instance of a grant of permission.

Water and Wastewater proposals

- 7.7.3. Water supply is proposed via a new connection to the water mains and the proposed wastewater treatment is proposed via a new connection to the public sewer. Details of the proposed connection to the public sewer are illustrated within Drawing no. 18-123-PL02. No details of the proposed water supply connection are evident.
- 7.7.4. The submission on the application from Irish Water requests further information in relation to a number of matters. In particular, I note the reference to the 150mm watermain drain in proximity to the appeal site along Barnageeragh Road and requirement for a 3m minimum separation distance from same. Further information in relation to water supply and drainage proposals are also requested.
- 7.7.5. The points raised within the submission from Irish Water are not addressed within the first party appeal. Clarification would be required in relation to the matters raised particularly in respect of the 3m set back from the Irish Water watermain drain. However, I consider such issues could be addressed by means of condition.

7.8. **Appropriate Assessment**

- 7.8.1. Having regard to the nature and scale of the proposed development, which is a small-scale residential development on residentially zoned and serviced lands, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider 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 is granted for the development in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development is in keeping with the character of the area and would not seriously injure the amenities of the area or the amenities of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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>Reason: In the interest of clarity</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water and required set back from watermain on Barnageeragh Road, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
3.	<p>The proposed vehicular access to the site from Selskar Avenue and parking layout shall accord with the requirements of the planning authority, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of road safety.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</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 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>Reason: 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>

Stephanie Farrington
Senior Planning Inspector

2nd of December 2020