



An
Bord
Pleanála

Inspector's Report ABP-308714-20

Development	Retention permission for the demolition of a shed and the construction of a new single storey detached granny flat in the rear garden.
Location	Crescent Road, Rush, County Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F20A/0423.
Applicant	Jean Kirk.
Type of Application	Retention Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party.
Appellant	Jean Kirk.
Observer	None.
Date of Site Inspection	19 th day of December, 2020.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a given 0.1188ha and it is located on the restricted in width residential developed Crescent Road, c0.3km by road to the coastline; c1.1km to the south east of the R126 by road; and c1.6km to the south west of the historic centre of Rush, in north County Dublin.
- 1.2. The site contains a 2-storey gable fronted detached dwelling house (Note: 129.8m² gross floor space) that appears to date to c1980s and that has been extended on its eastern side at roof level by way of the addition of a large dormer extension. This dwelling is setback from Crescent Road by a mainly hard surfaced front garden area that accommodates on-site car parking. The entrance serving this dwelling opens onto the Crescent Road with the hard surfacing extending alongside the western boundary of the site to where it terminates alongside the north westernmost point of the side elevation. There is sufficient width for vehicles to park alongside the western elevation as well as access into the rear garden area.
- 1.3. The rear garden area contains a single storey glass house structure located in close proximity to the main dwelling on site and there is a single storey L-shaped detached building of modest height and overall built form located towards the rear end of what is a long rectangular shaped garden. This building has a residential appearance and at the time of inspection was evidently in habitable use. This building was also served by a separate heating system and there is an amenity space provided to the front of it. There is an *ad hoc* pathway consisting of concrete slabs linking this building to a number of steps that provide connection to a modest raised area located to the rear of the main dwelling. It is via this area that access is achieved to the side driveway.
- 1.4. The ground levels of the site fall from the roadside edge fronting the property towards the rear of the site. The main fall in ground levels occur between the roadside boundary of the site and the principal elevation of the main dwelling as well as immediately to the rear of the main dwelling and the main rear garden area. The ground conditions and upkeep to the rear of the main dwelling on site, particularly in the vicinity of the single storey detached building to the rear are in a poor state and there was evidence of waterlogging.
- 1.5. The site is adjoined by two storey residential properties on either side as well as to the rear. There are a number of mature trees present along the rear boundary with the

remainder of the boundaries consisting of mixture of concrete block wall through to hedging of various quality. Though the immediate area surrounding this appeal site is served by a network of substandard in width, alignment through to surfacing local roads it is predominantly by one-off dwellings of varying architectural styles through to built forms.

2.0 Proposed Development

- 2.1. Retention permission for the demolition of a shed, which the planning application indicates had a gross floor space of 53m²; and the construction of a new single storey detached granny flat in the rear garden with a gross floor space of 52.4m². In addition, this form indicates that the development benefits from an existing connection to public mains water, drainage and that surface water is by way of a soakway.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 21st day of October, 2020, the Planning Authority decided to **refuse** retention permission for the following stated reason:

“Objective DMS43 of the Fingal Development Plan 2017-2023 requires that family flats are linked directly to the existing dwelling via an internal access door and do not have a separate front door. The proposed family flat is a detached structure, is not internally linked to the main dwelling and has a separate front door. The proposed development would therefore contravene Objective DMS43 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

- 3.2.1. **Planning Reports:** The **Planning Officer’s report** dated the 20th day of October, 2020, is the basis of the Planning Authority’s decision. It includes the following comments:

- Proposal is considered to accord with the land use zoning of the site.

- The family flat is a detached structure that is not internally linked to the main dwelling, has a separate door, and therefore does not accord with Objective DMS43 of the Development Plan.
- No undue residential and/or visual amenity impacts would arise.
- It is noted that the Water Services Engineering Section recommends that a flood risk assessment be sought and for additional information on the matter of surface water.
- No Appropriate Assessment Screening report accompanies this application despite the site's proximity to a Natura 2000 site. Notwithstanding, given the lack of a receptor pathway between the two and the nature of the setting in between it is not considered that this development would give rise to any significant effect on any European site, either alone or in combination.
- No EIA is required given that the development sought is not listed in Schedule 5 (Part 1 or Part 2) of the Planning and Development Regulations, 2001, as amended nor does the development meet the requirement for sub threshold EIA as outlined under Section 103 of the Planning & Development Regulations, 2001, as amended.
- A refusal of retention permission is concluded upon.

3.2.2. **Other Technical Reports**

Water: A request for additional information on the matters of flood risk; and surface water is sought.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** No objection subject to safeguards.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1. **Site & Setting:** None relevant.

5.0 Policy & Context

5.1. Local Policy Provisions

- 5.1.1. The Fingal Development Plan, 2017 to 2023, is applicable. Under this plan the site is located within a larger parcel of land zoned 'RU'. The land use zoning objective for such lands seeks: "*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*". In addition, the subject site is also located within a landscape that is designated as a 'Highly Sensitive Landscape' area on the Green Infrastructure Map associated with the Development Plan.
- 5.1.2. Chapter 12 of the Development Plan sets out development management standards for residential developments and on the matter of 'Family Flats' and 'Granny Flats' it acknowledges are a way of providing additional accommodation with a level of independence for an undefined temporary period of time. It also states that they: "*allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling)*"; and, that applications for such developments will be favourably considered subject to compliance with Objective DMS43. This Development Plan objective seeks to ensure that the following criteria are met:
- Are for a member of the family with a demonstrated need.
 - Are linked directly to the existing dwelling via an internal access door and do not have a separate front door.
 - When no longer required for the identified family member, are incorporated as part of the main unit on site.
 - Do not exceed 60m² in floor area.
 - Comply with the design criteria for extensions.
- 5.1.3. On the matter of domestic extensions Chapter 12 of the Development Plan sets out that these will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. It also indicates under Objective DMS42 that the Planning Authority will: "*encourage more innovative design approaches for domestic extensions*".

5.2. Natural Heritage Designations

5.2.1. The site is located in close proximity to the following European Sites:

- SPA: Rogerstown Estuary SPA (Site Code: 004015) is located c151m to the south of the site at its nearest point.
- SAC: Rogerstown Estuary Special Area of Conservation (Site Code: 000208) which is located c155m south of the site at its nearest point.

5.3. EIA Screening

5.3.1. Having regard to the nature of the proposed development, the serviced nature of the site, the developed nature of the landscape between the site and the European sites identified under Section 5.2.1 above, the lack of any hydrological connectivity between the two, 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

6.1.1. The grounds of appeal can be summarised as follows:

- The proposed development was misrepresented unintentionally as a granny flat in the original application and therefore the Planning Authority have assessed it against the criteria set out under Objective DMS43 and in turn they refused retention based on the proposed developments failure to comply with the said Development Plan objective.
- The proposed development represents an infill site and a type of development which can be facilitated under Objective RF43 of the Development Plan. The proposed development is compliant with the said Development Plan objective and documents contended to support this are attached.
- It is therefore requested that the Board overturn the Planning Authority's decision in this case.

- A reduced redline site area is now given (Note: 503m²).
- There is sufficient size to accommodate the creation of two residential plots on the 0.1188ha original site area.
- A revised Site Layout Plan is provided.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Board is requested to consider whether or not the development set out in the appeal defers materially from that which was originally applied for under P.A. Ref. No. F20A/0423 and whether the issues of natural justice apply.
- The Board is requested to assess this development as a house and therefore have regard to the relevant objectives set out in the Development Plan for such a development.
- Should the Board be minded to grant retention permission it is requested that a Section 48 Development Contribution condition be imposed.

7.0 Assessment

7.1. Preliminary Comment

7.1.1. The development for which permission is sought under this application is for retention. I therefore consider it appropriate to first make comment that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered "*as with any other application*". This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed.

7.2. Assessment

7.2.1. The Planning Authority refused planning retention permission for a development that essentially comprises of the retention of demolition of a shed and the retention of the construction of a single storey detached granny flat together with all associated works

within the rear garden of a site that includes a two-storey dwelling that fronts onto Crescent Road and has a given site area of 0.1188ha, in Rush, north County Dublin.

- 7.2.2. As set out in Section 3.1.1 of this report above, the Planning Authority considered that the development contravened Objective DMS43 of the Fingal Development Plan, 2017 to 2023. This Development Plan objective sets out the criteria for 'granny flat' type developments within the administrative area of Fingal County Council. Applications for 'granny flats' or 'family flats' are therefore required to demonstrate compliance with it.
- 7.2.3. Whilst this development could be considered to comply with a number of criteria of Objective DMS43 crucially in relation to the development sought under this application it seeks for such developments to be linked directly to the existing dwelling. The form of linkage required is clearly set out as being via an internal access door and furthermore it clearly indicates that these types of development should not have a separate front door. The granny flat sought under this application does not meet this criterion due to the fact that it is a separate structure located c38m at its nearest point to the rear of the main dwelling.
- 7.2.4. Nor could this structure be considered to comply with the Development Plan requirements for domestic extensions given this fact as these reflect a contextual circumstance that these built interventions occur to an existing dwellings overall built form and as such are not applicable to detached structures like that sought for retention under this application.
- 7.2.5. Notwithstanding, I also note to the demonstration of compliance with local planning provisions for domestic extensions is also a criterion set out under Objective DMS43, and as said as a detached structure remote from the existing dwelling house this is another criterion that this development fails to demonstrate compliance within the design resolution for the granny flat put forward.
- 7.2.6. Furthermore, Objective DMS43 also sets out that when these structures are no longer required for the identified family member that they are incorporated as part of the main unit on the site. This is extremely improbable that this would be achieved in time given the significant lateral separation between the main dwelling and the granny flat alongside the implications of the same on the private amenity space provision to the rear and the fact that the rear garden area also appears to contain a soakaway. Moreover, there are significant differences in finished floor levels between both

structures given the falling topography of the site. It is therefore not practical or foreseeable that such future connection would ever be considered as being viable. As such it is more probable than not that no future incorporation of the granny flat structure into the habitable area of the existing dwelling would ever occur though it could be possible for such a structure to be utilised for ancillary non-habitable related purposes for the existing dwelling on site. This however is not a future outcome being sought for consideration.

- 7.2.7. I therefore consider that on the basis of the information available to the Planning Authority that there reason to refuse permission for the 'granny flat' structure is with basis based on the failure of its design resolution to comply with Objective DMS43 of the Development Plan. The Development Plan clearly indicates that such developments will only be favourably considered where the criteria of this objective are met.
- 7.2.8. The appellants seek that the decision of the Planning Authority is overturned based on their contention that in error that they sought permission for retention of a 'granny flat' when instead retention permission for a detached dwelling was what they were seeking by way of this application. They now contend that such a detached dwelling would accord with Objective RF43 of the Development Plan as well as would accord with the proper planning and sustainable development of the area.
- 7.2.9. This Development Plan objective states that the Planning Authority will: "*consider planning applications for a house located within the South Shore area of Rush from persons who have been resident for a minimum of ten years within the South Shore Area or within the development boundary of Rush or within one kilometre by road of either of these areas, subject to sustainable planning and consideration of climate change impacts*".
- 7.2.10. Documentation submitted with this appeal appear to support that the applicant, Jean Kirk, meets the settlement criteria set out under this objective, but this objective makes it clear that this is not the only criteria under which a house will be considered within the South Shore area of Rush. Nonetheless, I acknowledge that the Development Plan, subject to safeguards, generally encourages the development of under-utilised infill, corner and 'backland' sites subject to the character of the area and the environment being protected.

- 7.2.11. Moreover, the site and its setting are located on lands zoned 'RU' which seek to protect and promote in a balanced way the development of agriculture and rural enterprise, biodiversity, the rural landscape, the built through to the cultural heritage.
- 7.2.12. I observed during my inspection of the site and its setting that the surrounding site context has been cumulatively eroded by *ad hoc* one-off dwellings despite the substandard nature of the public road infrastructure in this area and the landscape setting which is designated as being a High Amenity landscape area.
- 7.2.13. Rural development centring around agricultural and rural enterprise are not readily observable in the surrounding area with the predominant land use function being residential, with this residential as said by and large characterised by *ad hoc* and piecemeal developments addressing the local road network. Along Crescent Road I can find no Board precedent or established pattern for backland development residential but rather residential development along Crescent Road is linear in its pattern.
- 7.2.14. Notwithstanding, in the vicinity of the site, I do note that the Board permitted a detached dwelling on a neighbouring local road to the north of the site under ABP-305973-19.
- 7.2.15. In this case the Board considered that this road had precedent for such developments and that they were also satisfied with the overall design, site access arrangements and the like were acceptable. Aerial examination of the subject road to which this appeal case relates does appear to support the Boards conclusion in this regard but as said this is not the case with Crescent Road.
- 7.2.16. Furthermore, the Board considered that subject to conditions that the proposed development sought under ABP-305973-19 would give rise to any undue residential and/or visual amenity concerns.
- 7.2.17. I consider it appropriate that the proposed development is considered on its merits.
- 7.2.18. I also consider that the development sought for retention permission gives rise to its own individual planning considerations.
- 7.2.19. Whilst I consider that the dwelling house due to its modest size, height and overall built form would be unlikely to give rise to any serious visual and/or residential amenity

issues; it nonetheless is still poorly resolved in terms of its overall design, siting, access, surface water drainage through to access issues.

7.2.20. Moreover, the appeal submission also puts forward a lack of clarity in that there appears to be no boundary separating the two proposed private amenity spaces; there is no boundary running along the new driveway bounding the main dwelling house's private open space amenity to provide adequate visual buffering; through to the applicants sworn affidavit indicates it is their intention to leave this: "*new property in my will to my son Graham Kirk, to facilitate his future medical needs as and when they arise*" but at the same time they are now putting forward that it is the intention of the applicant that it would be an independent detached dwelling on its own independent plot.

7.2.21. I have noted also that both the applicant and their son appear to have medical issues. Yet the design as put forward for the 'dwelling' which the appellant now seeks by way of their appeal submission that the Board consider, has no special adaptations that reflect their medical needs or possible future medical needs whilst living independently with these. It is also clear from the documentation submitted with this application that many of the basic building control requirements for this type of development are not complied with this ranging from significant access issues for the structure itself through to ventilation. These relate to basic building control standards for a normal dwelling house design. I am cognisant that compliance with Building Regulations is governed by separate codes but equally I am not convinced based on the drawings submitted for the building for which retention is sought, its associated access and spaces that it would provide occupants a qualitative standard of residential amenities.

7.2.22. Of further concern is the topography of the site and the low finished floor level of the detached structure for which retention is sought.

7.2.23. An examination of the OPW Draft Flooding Maps that the site to the north and west is bound by land identified as 'Fluvial Indicative 1% - AEP (100-yr) event' and that the site itself as 'Pluvial Indicative 1% - AEP (100-year) event. Yet the application submitted to the Planning Authority and the documents provided with this appeal do not include a Flood Risk Assessment. Nor is there any confidence provided by way of the documentation submitted that the construction of a detached building for habitable purposes, i.e., either as a granny flat or as an independent dwelling, on land

at risk of flooding with such a low finished floor level is compliant with Flood Risk Guidelines and that adequate design measures have been included in its overall design. Particularly in terms of access and safety for occupants.

- 7.2.24. In addition, no assurance has been provided that adequate surface water drainage measures have or would be provided to meet the quantum of development on this site and if dependent on public mains drainage that it has spare capacity to absorb any additional demands.
- 7.2.25. Moreover, despite the reduced site forming part of a larger site that benefits from connection to public mains water and foul drainage there is no clarity given that separate connections have been provided to this public infrastructure or is a shared reliance on such infrastructure provided. If separate connection has been made to public infrastructure that the required consents were sought, and the required safeguards of the public infrastructure providers were adhered to.
- 7.2.26. In addition, there is no clarity provided that the driveway would be continued in the same manner as the existing driveway on site which is impermeable. If it were this would further reduce the area of deep soil on the site and increase the surface water drainage additional requirements that the overall development would give rise to.
- 7.2.27. This adds to the surface water drainage concerns I have already raised.
- 7.2.28. I have additional concerns arising from the appellants submission in that not only the revised drawings unscaled that the revised site layout plan does not include the location of any soakway, yet this was included in the initial application submitted to the Planning Authority. Nor are there any specifications provided on such infrastructure either *in situ* or now proposed. Also, no clarity has been provided that the reduced in size subdivision that the main dwelling would be site on that their own individual surface water drainage requirements will be met within the confines of their site area.
- 7.2.29. Whilst a detached dwelling of the size proposed is unlikely to give rise to a significant additional volume of traffic onto Crescent Road, I raise a concern that the site lines onto the road from the entrance that would serve it are substandard in both directions.
- 7.2.30. Additionally, no turning area has been demonstrated to show that there would be no conflict between vehicles access and egressing from the parking area to the front of the main dwelling with vehicles using the access road serving the site.

- 7.2.31. I also observed that the local roads, including Crescent Road whether one journeys to the west or east from the entrance serving the development sought are seriously substandard due to their restricted width, poor surfacing, poor horizontal alignment, lack of footpaths, lack of lighting and due to the significant proliferation of accesses onto it serving the significant number of residences that now occupy what was up to recent decades mainly agricultural land.
- 7.2.32. There also appears to be no planned improvements to the local road immediately serving the site in order to address some or any of its road safety deficiencies.
- 7.2.33. I also note to the Board that on journeying to the site as well as away from the site on several occasion's situations arose where I met another vehicle journeying in the opposite direction with there being inadequate space available to pass one another safely. This required reversing to a point where there was space to allow safe passage to continue.
- 7.2.34. These are just some of the concerns that the development now sought by way of this appeal give rise to and that put significant question marks over its now alleged compliance with Objective RF43 of the Development Plan.
- 7.2.35. To this there is the fundamental overarching concern with the grounds on which the appellant seeks the Board to overturn the decision of the Planning Authority. This is the significant variance of the development depending on whether one accepts the description of development as put forward in the planning application to that now contended by the appellants by way of their appeal submission.
- 7.2.36. The appeal submission indicates a significant reduced redline site area of 503m² set within what was originally indicated as the redline area of 0.1188ha in the application to the Planning Authority. This 0.1188ha area is now outlined in blue with the 503m² consisting of an area extending from the rear boundary in a southerly direction alongside extending to either side to meet with adjoining mainly residential developed land that bound it.
- 7.2.37. The appeal submission further indicates that the detached domestic structure with a lateral separation distance of c4.3m from the rear boundary; c4.8m from the western boundary and c1.4m from the eastern boundary would be served by a vehicular entrance extending from where the existing driveway ends in a northerly direction to where it would terminate to the front of the dwelling. The revised Site Layout Plan

indicated that a right-of-way over an extended driveway running along the western boundary of the site in the new blue line area would be created. Within the proposed new sub-division, the driveway would link to a turning area and a single car parking bay. The latter would be located to the south west of the dwelling. A private amenity space to the front of the dwelling house within the new subdivision is further indicated.

- 7.2.38. I raise significant concerns that the appeal seeks retention permission for what is creation of a detached dwelling house on a significantly reduced in area redline site area and newly proposed blue line site area. This is a significant departure to the actual development applied for and described in the public notices accompanying this application.
- 7.2.39. Moreover, the revised Site Layout Plan also seeks permission for additional development works, i.e., in the provision of additional site boundaries and new on-site access that effectively extends the existing driveway substantially to where it would terminate alongside what is now being contended to be a separate detached dwelling for which retention is sought. These works also are not part of the development works set out in the public notices provided and of further concern the documentation provided with this appeal do not meet legislative requirements for assessment of the same.
- 7.2.40. Of further concern the soakway that was indicated to have been provided to deal with surface water drainage of the structure for which retrospective retention is being sought is absent and there is no clarity on whether this exists or not. This concern is added to the lack of clarity on how surface water would be dealt with within the confines of both subdivisions which I have already discussed in detail.
- 7.2.41. I concur with the Planning Authority in their response to this appeal that what is sought by the appellant for retention permission and for planning permission by way of the appeal submission is functionally and physically significantly different to that applied for under this application and crucially what is described in the public notices provided. As a result, to consider the development as now described in the appeal submission raises natural justice concerns as it could not be reasonably concluded upon that a lay person reading this public notice could envisage that the outcome could be a detached dwelling house, the subdivision of an existing residential plot to serve two separate

dwellings through to the level of site development works required. In particular the provision of a new extended driveway and boundaries.

7.2.42. I am not confident that this issue could simply be addressed by way of a further information seeking revised public notices alone given the significant other substantive planning concerns raised above.

7.2.43. In conclusion, I recommend that the Board refuse retention permission for the development sought under this application.

7.3. Other Matters

7.3.1. Appropriate Assessment

7.3.2. The appeal site is located c150m to the north of Rogerstown Estuary Special Protection Areas (Site Code: 004015); and, is located c155m to the north of Rogerstown Estuary Special Area of Conservation (Site Code: 000208) at its nearest point.

7.3.3. The development sought is indicated to be served by way of an existing connection to public mains water and foul drainage supply. The application as submitted to the Planning Authority indicates that surface water drainage is via a soakaway.

7.3.4. It is unclear if this is existing or proposed and there is a lack of clarity in the submitted documentation in relation to its design through to capacity has been provided.

7.3.5. Of further concern the site is located in an area at risk of flooding and the design of the habitable building for which retention is sought provides no reassurance that its final finished floor levels take account its future flood risk.

7.3.6. This application is not accompanied by an 'Appropriate Assessment Screening Report' though I note that the Planning Authority concluded that they considered that this would not be required for the development sought.

7.3.7. Despite the modest nature and scale of the development sought under this application and the connection to public mains water as well as foul drainage, on the basis of the information provided which in my view lacks clarity on the matter of surface water and flooding I cannot make a fully informed screening determination that the development would not give rise to a significant effect individually or in combination with other plans or projects on the aforementioned European sites given the significant proliferation of development that has occurred in a piecemeal fashion in the vicinity of the site. In turn

on the basis of the information provided I can also not make a determination that a Stage 2 appropriate assessment (submission of an NIS) is not therefore required.

- 7.3.8. Should the Board be minded to consider that the structure for which retention is sought is in essence a house Objective DMS50 of the Development Plan requires such applications to be accompanied by a Screening for Appropriate Assessment, as necessary. Given the concerns raised, particularly in relation to potential future flood risk and given the proximity of the site to two European sites, I consider that such a Screening report should accompany any application for a dwelling house in this designated area of High Amenity.
- 7.3.9. In conclusion, it is my view that the Board is precluded from making a determination on this case.
- 7.3.10. **Section 48:** Under the applicable contribution scheme, the development sought under this application if permitted, would be liable for the payment of a Section 48 development contribution.
- 7.3.11. **Visual Amenity Impact:** While I am cognisant that the development sought is modest and there is only a limited view of it from the public domain of Crescent Road, I note to the Board should they be minded to consider that the structure for retention is essentially a house that Objective DMS50 of the Development Plan requires such an application to be accompanied by a 'Visual Impact Statement', as necessary. In this instance I do not consider the preparation of one to be necessary based on the modest overall built form through to the buildings lack of significant visibility from the public domain.

8.0 Recommendation

- 8.1. I recommend that retention be **refused** for the reasons and considerations set out below. I note that the first and third reasons and considerations set out below could be considered as new issues in the context of this appeal case.

9.0 Reasons and Considerations

1. On the basis of the information provided with the application and having regard to the documents submitted with the appeal submission, the sites location in an

area at floor risk, the Board cannot be satisfied that the development sought under this application either individually, or in combination with other plans or projects would not be likely to have a significant effect on the designated Rogerstown Estuary SPA (Site Code: 004015) and Rogerstown Estuary SAC (Site Code: 000208) Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) or any other European site, in view of their Conservation Objectives. In these circumstances the Board is precluded from giving further consideration to a grant of retention permission. The development sought under this application would therefore be contrary to the proper planning and sustainable development of the area.

2. Objective DMS43 of the Fingal Development Plan, 2017 to 2023, requires that 'granny flats'/'family flats' be linked directly to the existing dwelling via an internal access door and do not have a separate front door. The family flat as put forward in this application is a detached structure, it is not internally linked to the main dwelling and it has its own separate front door. In addition, the separation distance between the existing dwelling and this structure is such that it is not probable that it would ever be connected to the habitable floor area of the existing dwelling when the need for it has ended by the family member. The development sought under this application, if permitted, would therefore contravene Objective DMS43 of the Fingal Development Plan, 2017 to 2023, and would be contrary to the proper planning and sustainable development of the area.
3. The development sought under this application is in an area which is at risk of flooding. The Board is not satisfied, on the basis of the information lodged with the planning application and in response to the appeal, that this development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands.

Further, the Board is also not satisfied that the information submitted demonstrates compliance with 'The Planning System and Flood Risk Management Guidelines for Planning Authorities', November, 2009. The

development sought under this application would, therefore, be prejudicial to public health, it would conflict with the said Ministerial Guidelines and it would be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

19th day of January, 2020.