



An
Bord
Pleanála

Inspector's Report

ABP-309381-21

Development	Retention of single storey structure of 67.5 sqm.
Location	The Cottage, Ward Lower, The Ward, Co. Dublin, D11 CP44.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW20B/0154
Applicant(s)	Maude Joyce.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Maude Joyce.
Observer(s)	None.
Date of Site Inspection	17 th May 2021.
Inspector	Elaine Sullivan

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of the R135, approximately 500m 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. The site is bounded by a high wall with two large timber gates, one at either end of the site. The Ward River runs along the northern boundary of the site.
- 1.2. Internally the site is divided into two sections, both of which have separate vehicular access from the R135. A tyre business operated from the northern section of the site and the vehicular entrance for this area is set back from the main road. On the occasion of the site visit this gate was closed.
- 1.3. The planning application relates to a structure located within the southern section of the site. It is positioned against the internal dividing wall, on an east-west access and opening onto the internal shared courtyard. Access to the site was restricted on the occasion of the site inspection but the roof of the structure is visible behind the boundary wall.
- 1.4. 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. Planning permission is sought to retain a single storey playroom / study / home office / utility area with associated site works. The structure has a pitched roof profile and 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

Planning permission was refused by the PA for the following reasons;

1. The site is located in a rural area that is zoned Greenbelt in the Fingal 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 development proposed 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 proposed development is located in an area at risk of flooding. 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 a 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

The report of the Planning Officer dated the 6th January 2021 informed the decision of the PA and includes the following;

- The applicant has failed to provide clarity on the full purpose of the building to be retained and specifically, the dwelling to which the facilities contained therein relate to or are ancillary to.
- In the absence of such detail and the rationale for a stand alone building with the uses as indicated, and having regard to the Rural Housing Strategy and

Green Belt zoning, the proposal would be contrary to the proper planning and sustainable development of the area.

- The site is not serviced by public drainage and it is presumed that the site is serviced by an on site waste water treatment system. No details with regard to the wwts or the surface water drainage have been submitted.
- In the absence of such details the proposed development is considered to be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
- The site is located in close proximity to the River Ward and is partly located within Flood Zone B, as per FCC's Strategic Flood Risk Assessment. A flood risk assessment has not been submitted with the proposal and as such the proposal is considered to be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
- In order to prevent pedestrian/vehicle conflicts between the existing dwelling and the internal traffic movements, on site mitigation measures would be required to ensure visibility of pedestrians.
- In the absence of any information regarding traffic movements within the site, it is considered that the proposal could lead to a conflict between pedestrians and road users and would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
- There is a potential hydrological connection between the application site and the Malahide Estuary SAC and SPA via the Ward River. The concerns stated previously in relation to the absence of detail regarding wastewater disposal are particularly relevant in this case.

3.2.2. Other Technical Reports

- Water Services Department – The site is not serviced by public drainage. It is presumed that the applicant proposes to use an on-site waste water treatment / septic tank system although no details have been submitted. The applicant is requested to submit details of the existing system and how it complies with the EPA Code of Practice as well as a surface water drainage proposal for the

site. As the site is also partly located within a flood zone, (Flood Zone B), the applicant is also requested to submit a commensurate flood risk assessment.

3.3. Prescribed Bodies

- Dublin Airport Authority – The proposed development is within Noise Zone C. Objective DA07 of the CDP is relevant in this instance and seeks to control provision of new residential development and other noise sensitive uses within this zone. The DAA requests that the future noise environment of the site be fully assessed with consideration of future airport growth, that internal noise levels appropriate for individual rooms can be achieved and maintained and that noise mitigation measures should be implemented as required by the PA.
- Irish Aviation Authority – No observation to make.
- Irish Water – No objection.

3.4. Third Party Observations

None received.

4.0 Planning History

The appeal site has an extensive planning history. Planning permission to retain the single storey playroom / structure was sought on seven different occasions; four of these decisions were adjudicated on by the Board and are listed below.

ABP307495/20, (PA Ref. FW20B/0034) – Planning permission refused by the Board on the 3rd November 2020 for the retention of existing single storey utility area/playroom/study/home office of 67.5 sqm for the following reasons;

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.

Planning permission for the same development was also refused by the Board for the same reasons under the following reference numbers;

ABP305944/19, (PA Ref. FW19B/0103) – Permission refused on the 25th February 2020.

ABP303640/19, (PA Ref. FW18B/0133) – Permission refused on the 15th May 2019.

PL06F.248409, (PA Ref. FW17B/0007) – Permission refused on the 11th September 2017.

Planning permission was refused by the PA for the same development and for similar reasons under the following reference numbers;

FW19B/0081 – Permission refused on the 26th July 2019.

FW18/0125 – Permission refused on the 16th October 2018.

FW17A/0223 – Permission refused on the 6th February 2018.

Planning Enforcement;

PA Ref. 16/81B - Enforcement notice issued 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. Enforcement proceedings are ongoing.

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'.

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.

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.

Objective Z06 – Ensure that developments ancillary to the parent use of a site are considered on their merits.

5.2. Natural Heritage Designations

5.3. 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 bounds the stie to the north and flows into the Broadmeadow / Malahide Estuary SPA and SAC, which is approx. 9.5km to the east of the site.

5.4. EIA Screening

5.5. 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 grounds of the appeal related directly to the reasons for refusal and can be summarised as follows;

- The original cottage on the site pre-dates the 'GB' zoning for the site. If planning permission is not granted for people to build houses where they grew up it will kill the community.
- The reasons for refusal cited a lack of information with regard to the wastewater treatment on the site, the potential flood risk, access arrangements and internal vehicular movements. These issues could have been addressed through a request for additional information.
- Lack of clarity in the submitted information does not warrant a refusal.

6.2. Planning Authority Response

A response from the PA was received on the 8th day of March 2021 and includes the following;

- The proposed development was assessed against National and Regional planning policy and guidelines, the GB zoning for the site and Development Plan objectives.
- There is an extensive planning history to the appeal site and no documentation was submitted to address the refusal reasons issued on the previous planning applications.
- There are no material differences between the current application and that which was recently refused under Ref. FW20B/0034. Therefore, no alternative conclusions could be made.
- Given the nature of the proposal within the Green belt zoning, the sensitivity of the site in relation to public health and environmental pollution, it is considered that the application should be refused.

6.3. Observations

- No observations received.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal relate directly to the PA reasons for refusal and are as follows:

- Development Plan Zoning
- Drainage & Flood Risk
- Access & Transportation
- Appropriate Assessment

7.2. Development Plan Zoning

Planning permission is sought to retain a single storey structure of 67.5 sqm within a site which has a 'Green Belt' Zoning objective. The PA's first reason for refusal states that the development would not be in compliance with the zoning for the site and would represent a haphazard and piecemeal form of development.

I would agree with the conclusion of the PA and previous Planning Inspectors, that there is some ambiguity with regard to the use of the structure within the site. The planning application states that the structure to be retained is a playroom, which also has separate spaces for a home office, utility area and toilet. However, no information is supplied as to which structure within the site the playroom would be ancillary to. The additional two buildings on the southern portion of the site are labelled as 'Ex. Buildings' on the drawings and as such offer no clarity.

The scale of the structure is commensurate with the existing two buildings on the site, and, as such I do not consider it to be subordinate or ancillary. In the absence of any clarity with regard to the function and relationship of the structure within the context of the site, I would agree with the conclusion of the PA that the proposal would represent a haphazard and piecemeal form of development within the Green

Belt zoning which seeks to 'protect and provide for a Greenbelt' and I recommend that planning permission be refused for this reason.

The compatibility of the proposal with the greenbelt zoning objective was raised as a reason for refusal in all previous applications for the structure. However, the applicant has not provided any clarification on the matter within the current application or appeal.

7.3. Drainage & Flood Risk

The second reason for refusal relates to the lack of information submitted with regard to the foul and surface water drainage 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. However, the first party appeal submission does not include any clarity or additional detail in relation to these issues.

The Water Services Department report which accompanies the decision of the PA states that the site is not served by public drainage and insufficient information is provided in respect of the existing wastewater treatment within the site and their compliance with the EPA Code of Practice for Waste Water Treatment and Disposal for Single Dwellings.

I note that the issue of drainage within the site has been raised as a reason for refusal in all four Board decisions relating to the development proposal, but yet no information has been provided by the applicant to address the issue. 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, I conclude that 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.

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.

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.

7.4. Access & Transportation

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 via a sliding gate which opens directly onto the R135.

I consider that it could be possible to achieve adequate sightlines to facilitate access to the site and it is my view that there would be sufficient space within the site to accommodate the safe parking and movement of vehicles. However, further clarity on the nature of existing and proposed uses on the site would be required to fully determine the transportation issues. Having regard to the substantive issues identified in relation to the principle of the proposal and public health/environmental pollution outlined above, I do not consider it necessary to include a reason for refusal relating to creation of a traffic hazard.

7.5. Appropriate Assessment

The Ward River runs to the north of the appeal site and 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.

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. However, given the lack of information available in relation to the treatment and disposal of wastewater, such water quality impacts cannot be excluded.

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. I recommend that permission is refused for the development for the following reasons;

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.

Elaine Sullivan
Planning Inspector

25th May 2021