



An
Bord
Pleanála

Inspector's Report

ABP-312675-22

Development	Retention permission for a converted detached single storey outbuilding shed to beauty salon with ancillary works.
Location	1 Sycamore Lane, The Square, Donabate, Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0608
Applicant(s)	Helen Molloy
Type of Application	Retention Permission.
Planning Authority Decision	Refuse Retention Permission
Type of Appeal	First Party
Appellant(s)	Helen Molloy.
Observer(s)	None.
Date of Site Inspection	11 th August 2022.
Inspector	Enda Duignan

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1.0 Site Location and Description

- 1.1.** The site address is No. 1 Sycamore Lane, The Square, Donabate. The site is located on the western side of the public roadway linking Turvey Avenue to the north and Hearse Road further to the south. The appeal site comprises a double storey, semi-detached dwelling with off-street car parking provided on its southern side and an area of amenity space to its rear (west). A single storey detached structure which is the subject of this appeal is located within its rear amenity space and is located proximate to its southern and western boundaries. The site has a stated area of c. 0.0192ha.
- 1.2.** In terms of the site surrounds, the existing dwelling has a direct northern abuttal with a semi-detached double storey dwelling. To the south of the appeal site lies a single storey dwelling. The site shares a western boundary with the St. Patrick's Church of Ireland Church (Protected Structure) and graveyard. There are also a number of National Monuments located within the grounds of St. Patrick's Church.

2.0 Proposed Development

- 2.1.** The proposal seeks permission to retain an existing structure within the rear amenity space of the existing dwelling for use as a beauty salon. The structure is sited proximate to the western and southern site boundaries and has a total floor area of c. 13sq.m. The structure has a pitched roof form with a maximum height of c. 2.9m above natural ground level and materials and finishes comprise timber cladding for the principal elevations with a metal frame.
- 2.2.** The use is described in the appeal submission as a small-scale, one-person beauty salon which is operated by the owner and occupier of the existing dwelling on the site. It is stated that the use of the structure as a beauty treatment salon is run solely on an appointment basis only, where visiting members of the local community are facilitated on half an hour or full hour time slot basis. It is indicated that the patrons of the existing use either come by car or are dropped off at the house or walk/cycle as the appeal site is located proximate to good quality public transport.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council refused retention permission for the development for the following 1 no. reason:

1. Having regard to the nature of the development and the restricted nature of the site, the development to be retained would adversely impact on the existing residential amenity of the area by way of increased traffic at a site location where there is inadequate car parking, would materially contravene policy objective DMS111 of the Fingal Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Fingal County Council Planning Report is the basis for the decision. The report provides a description of the site and surrounds and sets and out its planning history. The report outlines the applicable zoning objective and provides an overview of the policy of the Fingal County Development Plan, 2017-2023, that is relevant to the development proposal.

The Planning Authority indicate that the principle of the development is acceptable having regard to the zoning objective that applies to the lands. In terms of impacts on residential amenity and the visual amenity of the area, it is stated that the structure will not be overtly visible from the road given its location to the rear of the existing dwelling. Given the design and layout of the proposal, no adverse visual impact will arise.

The Planning Authority note that the nature of the development would lead to customers/members of the public parking at the site location, entering into the site and accessing the rear/end side of the site on a daily basis. Concerns are highlighted with respect to the inadequacy of car parking. It is considered by the Planning Authority

that the commercial development to be retained on what is a restricted residential site adjacent to existing dwellings would lead to increased traffic generation at this location on a site where there is inadequate car parking provision. Concerns are also highlighted that the proposal significantly reduces the private open space provision available on site. On this basis, a refusal of permission is recommended.

In terms of impacts on cultural heritage, the Planning Authority refer to the commentary of the Conservation Officer, whereby further information was requested with respect to the potential impact of the proposal on the boundary wall of the existing Protected Structure to the west of the site.

3.2.2. Other Technical Reports

Conservation Office: Report received recommending a request for further information.

Water Services: Report received stating no objection subject to compliance with standard conditions relating to surface water drainage.

3.3. Prescribed Bodies

Irish Water: Report received stating no objection subject to compliance with a condition.

3.4. Third Party Observations

2 no. observations were received by third parties. The issues raised within the observations can be summarised as follows:

- Incorrect and misleading information submitted as part of the application, including an incorrect Eircode, and the application should therefore have been invalidated.
- Concerns with respect to the adequacy of the development description.
- The existing use negatively impacts on the residential amenity of the adjoining property.
- Noise related concerns associated with the existing use.

- The operation of a full-time business is not appropriate to be located adjacent to someone's property boundary because of the residential nature of this area which gives rise to nuisance of which is not appropriate in any manner or form.
- Concerns with respect to the lack of appropriate car parking.
- The proposal currently represents a traffic hazard.
- It is purported that the site is residentially zoned and the existing use materially contravenes this zoning objective.
- There are concerns the proposal has negatively impacted on the character of the Architectural Conservation Area.
- One observation has highlighted that there is no issue with the proposal in principle.
- There are concerns highlighted with respect to the construction of the foundations and erection of the structure that may have resulted in impacts to the perimeter boundary wall the adjacent Protected Structure.
- The application fails to identify the site within the Newbridge Architectural Conservation Area nor does the applicant recognise the rear boundary wall lies within the environs and curtilage of a Protected Structure and National Monument.

4.0 Planning History

4.1. The Subject Site.

The recent planning history of the site can be summarised as follows:

- 4.1.1. **F02B/0655:** Retention permission granted on 10/02/2003 for the installation of PVC windows in 2 no. dwellings previously approved under Reg. Ref. F01A/1015.
- 4.1.2. **F02A/0953:** Retention permission granted on 01/11/2022 for alterations to 2 no. dwellings previously approved under reg. ref. F01A/1015.
- 4.1.3. **F01A/1015:** Planning permission granted on 18/10/2001 for the demolition of existing dwelling and erection of two no 2 storey townhouses with new entrances.

4.2. Relevant Planning History

- 4.2.1. **F08B/0010:** Planning permission granted on 05/06/2008 on the adjoining site (i.e. No. 2 Sycamore Hill) for the erection of a two storey side and rear extension, comprising a proposed floor area of 63 sq. metres, internal alterations and associated external ancillary site works at the side and rear of an existing residence, which is adjacent to the curtilage of a protected structure.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located within an area zoned 'TC' of the Fingal County Development Plan (CDP), 2017-2023, the objective of which is to "Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities". All lands within the immediate surrounds of the subject site are also zoned 'TC'.

The site is indicated on Sheet No. 14 'Green Infrastructure 1' of the current CDP as being located within a 'Highly Sensitive Landscape'. The site is identified as being located within the Donabate Development Boundary and also the boundary of the Newbridge Architectural Conservation Area (ACA). St. Patrick's Church of Ireland Church and graveyard is located to the west of the site and is designated as a Protected Structure (RPS No. 508). Recorded Monuments (DU012-005001, DU012-005002, DU012-005003, DU012-005004) are also located to the west of the site within the curtilage of St. Patrick's Church and its attendant grounds.

- 5.1.2. The following relevant policy objectives are noted:
- Objective DMS111: Permit home-based economic activities where the proposed activity is subordinate to the main residential use of the dwelling and does not adversely impact on the existing residential amenity of the area by way of increased traffic, noise, fumes, vibration, smoke, dust or odour.
 - Objective DMS112: Permit home-based economic activity on a short-term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity, where required.

- Objective DMS87: Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:
 - o 3 bedroom houses or less to have a minimum of 60sq.m of private open space located behind the front building line of the house.
 - o Houses with 4 or more bedrooms to have a minimum of 75sq.m of private open space located behind the front building line of the house. Narrow strips of open space to the side of houses shall not be included in the private open space calculations.
- Objective DMS88: Allow a reduced standard of private open space for 1 and 2 bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/ corner sites. In no instance will the provision of less than 48sq.m. of private open space be accepted per house.
- Table 12.8: Car Parking Standards.

5.2. Natural Heritage Designations

- 5.2.1. The nearest designated sites are the Malahide Estuary SPA (Site Code: 004025) and Malahide Estuary SAC (Site Code: 000205) c. 1km to the to the south of the site. The proposed Natural Heritage Area (pNHA): Malahide Estuary, is also located c. 1km to the site's south. The Rogerstown Estuary SPA (Site Code: 004015) and Rogerstown Estuary SAC (Site Code: 000208) are located c. 1.45km to the to the north of the site. The proposed Natural Heritage Area (pNHA): Rogerstown Estuary, is also located c. 1.45km to the site's north.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale the development to be retained, which consists of the erection of a detached structure (c. 13sq.m.) for use as a beauty salon in a serviced urban location, there is no real likelihood of significant effects on the environment arising from the development to be retained. 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 main grounds of the appeal can be summarised as follows:
- 6.1.2. The use as a beauty salon is run solely on the booking system where visiting members of the local community are facilitated on half hour or full hour time slots. It is stated that it's discreet usage and is carried on without any noise or other impact on the amenities of the area. The submission indicates that the Applicant had previously traded elsewhere within the Town Center, an area of relatively high rent for service businesses. However, the viability of the business was severely impacted by the COVID-19 pandemic.
- 6.1.3. The proposal complies with objective DMS11 the current CDP which relates to home based economic activity, and the appeal site and dwelling are both of a sufficient size and scale to accommodate its usage, having adequate residual private amenity space retained both to the rear and side of the dwelling.
- 6.1.4. The erection of the structure has had no impact on the structural integrity the existing boundary wall of the neighboring property which is a designated protected structure. This issue dates back some 20 years, a civil law matter that has been the subject of recent consultation between the church representatives and the applicant.
- 6.1.5. The site area is not unduly restricted with an area of c. 0.1ha. and can reasonably accommodate the c. 13sq.m. outbuilding whilst maintaining a sufficient area of private open space both to the side and rear of the dwelling.
- 6.1.6. The traffic issue and the impact that it could have on residential amenity appears to be the sole issue for the Planning Authority in its decision to refuse permission for the proposed development.
- 6.1.7. The concerns raised by the Planning Authority with respect to impacts on traffic are not corroborated by the Council's Traffic Planning Engineer, with no de facto evidence

to support such a draconian traffic appraisal of such a small scale use activity other than matters that are gratuitously indicated in a third party complaint from a neighbour.

- 6.1.8. The appeals site contains a discrete 2 bedroom house. The appellant is more than happy to undertake the widening of the existing car parking area so that it can accommodate 2 car parking spaces should the board deem appropriate.
- 6.1.9. It is indicated at the site is located within an immediate proximity to the town centre of Donabate and the associated public transport routes. Patrons of the facility either park up on site or are dropped off, arrive by public transport or walk or cycle to the premises. There is, in fact minimal and limited traffic impact arising from the proposed development, with the adjoining roads and public transport net network being only minimally impacted by the proposed development.
- 6.1.10. It is considered that a more balanced decision on the application should have been logically made. This is so stated having regard to the characteristics and operation of such use activity - a small scale home based beauty salon of such insignificance - located within an appropriately zoned 'Town Center' area with the outbuilding structure having little or no visual impact when viewed from within the ACA or from the adjoining public road.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

The main issues are those raised in the Planning Report and consequent refusal reason and the Appellant's grounds for appeal. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Traffic & Car Parking
- Built Heritage
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The proposal seeks retention permission for the construction of an outbuilding within the rear amenity space of an existing dwelling. The structure has a floor area of c. 13sq.m. and is in operation as a beauty salon which it is stated as being operated by the owner and occupier of the existing dwelling. The appeal submission indicates that no other people are employed in the salon and patrons are facilitated on half hour or full hour time slot basis.
- 7.1.2. Given the nature and scale of the proposal, I would consider the use of the structure to fall within the scope of home based economic activity, a use which is specifically defined in the current CDP and is identified as a 'permitted in principle' use within the 'TC' zoning that applies to the site and surrounding area. The policy of the current CDP notes that "Development proposals for small scale home based economic activities will be considered where the applicant is the resident of the house and can demonstrate that the proposed activity is subordinate to the main residential use of the dwelling". The policy states that proposals that adversely impact on the existing residential amenity of the area by way of increased traffic, noise, fumes, vibration, smoke, dust or odour will not generally be favourably considered.
- 7.1.3. I note that the Planning Authority in their assessment of the application considered the use of the structure to be subordinate to the main residential use of the dwelling. I would agree with this, and I am satisfied that the scale (c. 13sq.m.) of the use is subordinate to that of the primary residential use on site. Although the site is zoned 'TC', I acknowledge that existing residences are located to the north and south of the appeal site. Concerns were highlighted from a third party observer with respect to the potential impact of the development on the residential amenity of the adjoining property. Notwithstanding this, having regard to the nature of the use (i.e. beauty salon) and given there is no mechanical equipment or ventilation associated with its

operation, I am satisfied that the proposal will not unduly impact the residential amenity of properties within the surrounds of the application site. I consider it reasonable to recommend the inclusion of a specific condition which will limit the hours of its operation and stipulate that the use of the outbuilding as a beauty shall be solely operated by the owner and occupier of the dwelling (i.e. no additional staff permitted to operate from the premises). I note the issue of increased traffic associated with the use is discussed separately in the following section of this report.

7.1.4. With respect to Objective DMS112 of the current CDP, it is Council policy to “Permit home-based economic activity on a short-term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity, where required.” I consider this policy to be more applicable in the context of lands which have a residential zoning, where the use is neither ‘permitted in principle’ or ‘not permitted’, where the proposal will be assessed in terms of its contribution towards the achievement of the Zoning Objective and Vision and its compliance and consistency with the policies and objectives of the current CDP. Given the scale and nature of the development to be retained and its identification as a ‘permitted in principle’ use on this ‘TC’ zoning, I am satisfied that the proposal is generally acceptable at this location subject to compliance with appropriate conditions as discussed in the foregoing.

7.1.5. Given the size and siting of the structure within the site, I am also satisfied that the quantum of amenity space retained for the existing dwelling is acceptable and will offer a good standard of amenity to the existing occupant.

7.2. Traffic & Car Parking

7.2.1. In the Planning Authority’s refusal reason, it was deemed that the proposal would adversely impact on the existing residential amenity of the area by way of increased traffic at a site location where there is inadequate car parking. The proposal was therefore considered to be contrary to policy Objective DMS111 of the current CDP. 2 no. off-street car parking spaces are identified on the architectural drawings as being located on the southern side of the dwelling. However, upon inspecting the site, it was evident that only 1 no. car parking space could be readily accommodated on site with the current configuration of the site and entrance. I consider the provision of 1 no. off-

street car parking space to be satisfactory to the requirements of a 2 bedroom dwelling at this location given its modest size.

- 7.2.2. As noted, the appeal site is located on lands zoned 'TC' and the site is located within walking distance of a variety of modes of public transport, including Donabate Railway Station which is within a 4 minute walking distance of the site. Given the site's location in the context of the existing railway station, the site would fall within car parking 'Zone 1' of the current CDP (i.e. 1,600m of an existing or planned Luas/DART/Metro/Rail station) which allows fewer car parking spaces. I note that a maximum car parking standard applies to the majority of retail/commercial uses within Table 12.8 (Car Parking Standards) of the current CDP.
- 7.2.3. Following an inspection of the site, it was evident that there appears to be a level of car parking availability within the surrounds of the appeal site and I observed a number of free car parking spaces associated with the St. Patrick's Church to the south west of the site. I also noted an availability of car parking within Donabate village and within the Donabate Railway Station. It is reasonable to assume that patrons who utilise the beauty salon can avail of these car parking spaces given the proximity of the site to the centre of the village. I am also cognisant of the modest size of the structure, and I am satisfied that the beauty salon cannot reasonably accommodate more than one patron at any one time. By the nature and intensity of the use, I consider the impact of the proposal in terms of increased car parking pressures within the surrounds is likely to be negligible.
- 7.2.4. Therefore, having regard to the scale and nature of the use, the location of the site on lands zoned 'TC' within the town of Donabate, the site's proximity to good quality public transport which patrons can avail of and the availability of car parking within the wider surrounds, I am satisfied that the proposal is in compliance with policy Objective DMS111 of the current CDP and will not adversely impact on the existing residential amenity of the area by way of increased traffic or on-street car parking pressures. Subject to compliance with appropriate conditions, I am satisfied that the regularisation of the existing use is in accordance with the proper planning and sustainable development of the area.

7.3. Built Heritage

- 7.3.1. As highlighted earlier in this report, the site is located within the Newbridge ACA. The site has also a direct abuttal (west) with St. Patrick's Church of Ireland Church and graveyard which is designated as a Protected Structure (RPS No. 508). The existing structure is located behind the existing building line adjacent to the southern and western boundaries and has a height of c. 2.9m above natural ground level. Although glimpses of the structure are visible from the public road to the east of the site, I am satisfied that the proposal does not adversely impact the character or setting of the existing ACA or adjoining Protected Structure. I also note that the Planning Authority has not raised issue with this element of the proposal.
- 7.3.2. I am conscious of the Planning Authority's Conservation Officer commentary on file with respect to the impact of the proposal on the structural integrity of the Churches' boundary wall which forms part of its curtilage. I also note the observation on the original application from the representatives of the church which indicated that damage to the wall may have resulted from the erection of the structure (and its foundations) in question. The Planning Authority's Conservation Officer recommended that additional information be requested prior to a determination on the application being made.
- 7.3.3. Upon inspecting the site, it was evident that the existing boundary wall which separates the appeal site from the Church is partially collapsed. However, I note that the structure is set back from the wall and it is unclear whether its partial collapse predated the erection of the structure or not. Notwithstanding this, I consider this matter to be a civil matter, and I do not propose to adjudicate on this issue. I note that the works to the boundary wall do not form the basis of this application for retention and the planning system is not designed as a mechanism for resolving disputes of this nature.

7.4. Appropriate Assessment

- 7.4.1. I note that there are a number of European sites within the surrounds of the appeal site. However, having regard to the nature and scale of the development to be

retained, an outbuilding which is utilised as a beauty salon, and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered 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

8.1.1. Grant of permission is recommended.

9.0 Reasons and Considerations

9.1.1. Having regard to the scale and nature of the existing beauty salon use, the location of the site on lands zoned 'TC' within the town of Donabate and the site's proximity to good quality public transport, the development to be retained is considered to be in accordance with policy Objective DMS111 and DMS112 of the Fingal County Development Plan, 2017-2023 which provides policy guidance with respect to home based economic activity. The proposal will not adversely impact or erode the architectural character of the site and surrounds, will not adversely impact on the existing residential amenity of the area, including by way of increased traffic or on-street car parking pressures. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area subject to compliance with appropriate conditions.

10.0 Conditions

1.	The proposed development shall comply with the plans and particulars lodged with the application submitted, 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. Reason: In the interest of clarity.
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2.	<p>The use of the outbuilding as a beauty salon shall be solely operated by the owner and occupier of the existing dwelling on site and no additional staff shall be permitted to operate from the premises.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>The use of the outbuilding as a beauty salon shall be restricted to the times of 8am to 8pm, Monday to Saturday only with no patrons permitted on Sunday.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<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. The contribution shall be paid prior to the 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 the Board 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 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>

Enda Duignan
 Planning Inspector

15/08/2022