



An
Bord
Pleanála

Inspector's Report

ABP-314454-22

Development	i) Revise Condition 6 of previously approved development (Reg Ref F20A/0673) to omit acoustic enclosure and (ii) retention permission to reduce number of heat pumps from three to two
Location	1 The Obelisk, Strand Street, Skerries, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0291
Applicant(s)	Prosper Fingal CLG
Type of Application	Permission and Retention Permission
Planning Authority Decision	
Type of Appeal	First Party (Against Condition)
Appellant(s)	Prosper Fingal CLG
Observer(s)	
Date of Site Inspection	15 th August 2023
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The appeal site comprises No. 1 The Obelisk, Strand Street, Skerries, Co. Dublin. It is situated in the centre of Skerries village and opposite the Obelisk monument on its eastern side.
- 1.2. The property accommodates an existing two-storey building which was originally built as a house. The structure has been renovated and repurposed in recent years and is now used by Prosper Fingal; an organisation providing services and support to adults with intellectual disabilities based in north County Dublin.
- 1.3. The property has westward-facing frontage onto Strand Street. McLoughlin's Lane is the northern boundary for the site. Further north on the far side of McLoughlin's Lane is No. 13 Strand Street, an end-of-terrace house. The southern boundary is formed by No. 2 The Obelisk (15 Strand Street), which also faces onto Strand Street and appears to be used for residential purposes. The rear (east) part of the site adjoins a cul-de-sac called Sandy Banks, which is a narrow laneway providing access at the back of several residential and commercial properties facing onto Strand Street.
- 1.4. The surrounding area is mainly characterised by a mix of commercial, retail, residential and recreational uses typical of that of a busy town centre.
- 1.5. The site has a stated area of approximately 0.06ha.

2.0 Proposed Development

- 2.1. The proposal is seeking (i) permission to omit a condition (No. 6) from a previously decision to grant permission for design modifications to a previously permitted development (Reg. Ref. F20A/0673), and which requires an acoustic enclosure, and (ii) retention permission to omit a heat pump such that the total number of heat pumps would be reduced from 3 no. to 2 no.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Decision to refuse permission and refuse retention permission in July 2022. The stated reasons for refusal are as follows:

1. The omission of the acoustic enclosure around the heat pumps would lead to an unacceptable level of noise disturbance to nearby residential properties, particularly No. 13 Strand Street and, therefore, contravene Objective DMS138 of the Fingal Development Plan 2017-2023.
2. The proposed development, if permitted, would set an undesirable precedent for similar developments, which would cumulatively injure the residential amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

- The proposed development would not unduly impact on the visual amenity of the area or adversely affect the character of the Skerries ACA.
 - The subject site is surrounded by a mix of commercial and residential properties within a densely developed area of the town centre.
 - The Noise Monitoring Report submitted by the Applicant states noise levels have been found to be below the prescribed limits for daytime, evening and night-time periods while the heat pumps are enabled.
 - However, notwithstanding this, concerns still remain and the Council's Environmental Health Officer (EHO) has concluded that the acoustic enclosure should not be omitted as the heat pumps are causing a noise nuisance to a neighbouring property. They also state that the development should adhere to the relevant regulations regarding control of noise.
3. In conclusion, the proposed development would adversely impact on the amenities of adjoining properties, not be accordance with the relevant policies and objectives of the Fingal Development Plan 2017-2023 and would set an

undesirable precedent for similar developments, which would cumulatively injure the residential amenities of the area.

3.2.2. Other Technical Reports

Conservation Officer: No objection / comment in relation to the application.

Environmental Health Officer (EHO): Recommends that the acoustic enclosure should not be omitted as the heat pumps appear to be causing a nuisance to a neighbouring property. The development should also adhere to Schedule 2, Part 1, Class 2 D of the Planning and Development Regulations, 2001, part 5 whereby noise levels must not exceed 43dB(A) during the normal operation, or be in excess of 5dB(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.

3.3. Third Party Observations

The Planning Authority received a single third party observation, which is from a resident at No. 13 Strand Street (residential house). No. 13 is to the north of the subject site on the other side of McLoughlin's Lane.

The main relevant issues are summarised as follows:

- Condition 6 of Reg. Ref. F20A/0673 is to safeguard the residential amenities of property in the vicinity of the development.
- The Noise Monitoring Report submitted with the application is deficient. Sound measurements have not been taken at the proper site boundaries, or over a prolonged period, and the survey itself was completed without sufficient technical knowledge. It appears that the heat pump units were not running at maximum power during the survey.
- The pitched window adjacent to the lower heat pump reflects the sound waves significantly and there are various secondary effects caused by walls and other roof furniture which worsen the noise impact.
- The excessive noise has had a particularly negative impact as one of the occupants of the house has a health condition and suffers from stress and reduced mobility.

- The third party has taken sound readings which show excessive noise is being generated (see appended images).
- The application does not show the size of the heat pumps currently installed.
- Various measures such as sound proofing have been considered by the third party to try and reduce the noise impacts. However, these have proven unfeasible.

4.0 Planning History

ABP-309655-21 (Reg. Ref. F20A/0675): An Bord Pleanála **granted retention permission** in June 2021 for a modified first-floor window arrangement on west elevation, increased height of parapet wall on north elevation, increased area of first-floor plant room, revised ground finished floor level, ridged and lean-to skylights and additional first-floor office area with access stairs.

ABP-309653-21 (Reg. Ref. F20A/0673): An Bord Pleanála **granted permission** in June 2021 for modifications to development previously permitted under Reg. Ref. F17A/0744 comprising a new accessible ramp to serve the main entrance on west elevation, revised treatment of north elevation to include 10 no. mosaic artwork panels and stone cladding arrangement, increased rear boundary wall height, 3 no. heat pumps at roof level, recessed swift nesting boxes on north, west and east elevations.

The Board Order under Condition 6 states that an acoustic enclosure shall be provided for the three heat pumps to ensure cumulative noise from the pumps does not exceed the following limits:

- Daytime (07:00 to 19:00hrs) – 55dB Lar, 30min
- Evening (19:00 to 23:00hrs) – 50dB Lar, 30min
- Night (23:00 to 07:00hrs) – 45dB Lar, 30min

Noise emission from the development when it is in operation shall be broadband in nature and free from audible tonal characteristics.

Reg. Ref. F20A/0675: The Planning Authority **granted retention permission** in February 2021 for an amended first-floor window arrangement on west elevation,

increased height of parapet wall on north elevation, increased area of first-floor plant room, revised ground finished floor level, ridged and lean-to skylights and additional first-floor office area with access stairs.

Reg. Ref. F17A/0744: The Planning Authority **granted permission** in February 2018 for a change of use from an existing dwelling house to a day centre for persons with an intellectual disability, ancillary administration/support offices and ancillary site works.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

The Fingal Development Plan 2023-2029 was made on 22nd February 2023 and came into effect on 5th April 2023

Zoning Map (Sheet No. 5)

The subject site is zoned 'TC - Town and District Centre', which seeks to 'protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'.

The zoning vision is to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development.

Architectural Conservation Area

The front part of the site is within the Skerries Architectural Conservation Area (ACA).

Protected Structures

The site is near two Protected Structures, which are RPS No. 196 (Post Office at 11 Strand Street) and RPS No. 197 (The Hamilton Monument).

There is a specific objective for a Cycle Network Plan which takes in Strand Road at the front of the site.

Chapter 5 - Climate Action

Policy CAP9 Energy Efficiency in Existing Buildings is to support high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings, including retro-fitting of appropriate energy efficiency measures in the existing building stock.

Chapter 10 – Heritage, Culture and Arts

Policy HCAP17 – Maintenance and Energy Retrofitting seeks to promote good housekeeping principles of routine maintenance checks, with repair and conservation of building fabric where required as a mechanism to assist with achieving the best thermal performance from a building. Support and promote the sensitive retro fitting of energy efficiency measure and the use of renewable energy sources in traditional and historic buildings, including Protected Structures. Ensure that the measures are compatible with traditional construction methods and materials and do not have a detrimental physical, aesthetic or visual impact on the structure.

Chapter 14 – Development Management Standards

Objective DMSO260 – Energy Efficiency in Existing Buildings seeks to support high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings, including retro-fitting of appropriate energy efficiency measures in the existing building stock.

5.2. **Natural Heritage Designations**

The site is not located in or adjacent to a designated European site.

The closest Natura 2000 site is Skerries Island SPA (site code 001218), which is roughly 800m to the northeast.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- A total of three heat pumps were granted permission under ABP-309653-21 (Reg. Ref. F20A/0673). During construction, it was decided that two heat pumps would be sufficient for the property. Therefore, the third heat pump has

not been installed and has been omitted from the development. This heat pump would have been the closest one to No. 13 Strand Street (the third party).

- The noise from the existing heat pumps make a sound akin to between a 'quiet library' and 'whisper'. This is according to research completed by the American Academy of Audiology.
- Prosper Fingal CLG supports individuals who have autism or sensory processing disorder. They are sensitive to background noise which can be painful, distressing or even debilitating, which can cause sensory overload. For this reason, noise reduction was an important design specification in redeveloping the building under the previous permission and has been applied to the operating plant.
- Noise levels are below that required under Condition 6 of Permission ABP-309653-22 (Reg. Ref. F20A/0673). Therefore, an acoustic screen should not be required as it would only add to expense and disruption.
- A Noise Monitoring Report (issued 15th March 2022) makes the following main points:
 - Noise levels recorded have been found to be below the prescribed limits for daytime, evening and night-time periods.
 - The measured noise location (NSL1) was heavily influenced by anthropogenic noise sources, particularly during the daytime period.
 - The source of a potential tonal noise was identified to be from a neighbouring site (see Figure 4.7).
- The appended letter from Prosper Fingal (dated 24th August 2022) raises the following main issues:
 - The new premises in Skerries has greatly enhanced the streetscape. It provides excellent facilities for the people it supports.
 - The Decision by the Planning Authority to refuse the omission of the third heat pump at the side of the building is confusing as only two heat pumps are required.

- The noise assessment completed on the two existing heat pumps demonstrates that the facility is well within the allowable noise levels.
- No other person or neighbour has brought this matter to the attention of Prosper Fingal, including the other adjoining house owner to the south.

6.2. Planning Authority Response

- The Planning Authority has no further comment to make in respect of the appeal.

7.0 Assessment

The main planning considerations relevant to this appeal are:

- Residential Amenity and Noise
- Appropriate Assessment

7.1. Residential Amenity and Noise

- 7.1.1. The Planning Authority's First Reason for Refusal is that the omission of the acoustic enclosure around the heat pumps – which are required under Condition 6 of Permission ABP-309653-22 (Reg. Ref. F20A/0673) – would lead to an unacceptable level of noise disturbance to nearby residential properties, particularly No. 13 Strand Street and would, therefore, contravene Objective DMS138 of the Fingal Development Plan 2017-2023. [I note that the 2017-2023 Development Plan has been recently superseded, and the current version of relevant statutory plan for the area is now the Fingal Development Plan 2023-2029.]
- 7.1.2. The application also seeks to omit the previously proposed and permitted heat pump on the side of the subject building – i.e., the one nearest No. 13 -, such that the total number of heat pumps would be reduced from three to two. This part of the proposal is not assessed in detail by the Planning Authority or referenced within the Decision.

- 7.1.3. The existing building has been recently redeveloped and refurbished to accommodate a new community focused use (Prosper Fingal) permitted under ABP Ref. ABP-309653-22. The building has incorporated new energy efficiency measures into its design and through recent construction works. In this regard, I consider Objective DMSO260 of the Development Plan relevant as it supports high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings, including retro-fitting of appropriate energy efficiency measures in existing building stock. Heat pumps are recognised as a more efficient technology than a traditional boiler system allowing for a better use of renewable energy sources, ambient energy and recovery of excess heat / heat loss. They are typically used for heating purposes, hot water, and sometimes cooling.
- 7.1.4. During my site inspection I observed that the two heat pumps were installed in the location as per the plans and particulars submitted under Reg. Ref. F20A/0673 (ABP-309653-22). Further details are shown on the drawings submitted as part of the current application. The units are of a modern design and specification and not excessive in terms of their size or scale relative to the building they serve. The apparatus are setback off the northern boundary of the site by roughly 11.8m and are affixed to the rear (eastern elevation) of the top floor of the building. They are not visible from Strand Street or the town centre. The distance from the neighbouring property (No. 13) is c. 7.5m and there is a narrow laneway situated between the two properties, which is McLoughlin's Lane. Other nearby and adjoining buildings along this stretch have similar types of small plant and equipment attached to their rear elevations and roofs, including several different types of air conditioning units, air condensers, fans and vents. This is typical along the rear building line of a row of structures which are within, or near, a busy town centre location.
- 7.1.5. I have reviewed the interdepartmental report completed by the Council's Environmental Health, Air and Noise Unit (dated 16th June 2022). I note that a detailed technical assessment or review of the matter has not been undertaken and the report simply states the acoustic enclosure should not be omitted as the heat pumps appear to be causing a noise nuisance to the neighbouring property.
- 7.1.6. The third party states as part of their observation to the Planning Authority that they have taken their own sound readings and that these show excessive noise levels

being generated by the heat pump(s). However, they have not included an independent noise monitoring analysis to support these findings and, as noted above, there are other potential sources of noise and similar types of heating and cooling equipment in proximity to the site.

- 7.1.7. Conversely, an independent Noise Monitoring Report is appended to the rear of the Applicant's appeal submission. The report sets out the noise levels recorded for the area, including that generated by the subject site and its heat pumps. It concludes that these noise levels are below the prescribed limits for daytime, evening and night-time periods. I note the positioning of the noise measurement location / receptor (NSL1) at the top of the flat roof within approximately 5.5m of the heat pumps. The location of the reading is acceptable, in my opinion, and in accordance with best industry practice. It has been chosen to represent noise levels as they might potentially impact the noise sensitive receiver, which in this case is No. 13, and other nearby receptors.
- 7.1.8. The reading location is not too far away from the heat pumps to give an inaccurate reading, on the far side of the flat roof, example. It is positioned next to / away from extraneous noise sources, such as car parking, neighbour activity or sound emanating from nearby streets, such that might otherwise lead to misleading variations. Furthermore, the receptor (NSL1) was not positioned in behind any physical object or on a part of the roof / building which might otherwise dampen down sound or give a misleading result. I accept that the measured noise location (NSL1) has been influenced by anthropogenic noise factors, particularly during the daytime period, as acknowledged within the report. However, such sounds would not be unusual next to the main street of a town centre setting, and I do not consider that this resulted in a deficient noise assessment as a result.
- 7.1.9. I note that the potential for tonal noise from such plant can often be generated by some type of metal-on-metal contact including, for example, the internal fan touching off other parts of the unit or its housing. However, the report confirms that whilst a potential tonal noise was identified nearby, this was not emanating from either heat pump, but instead from a neighbouring property. The tonal noise identified could potentially be from another similar type of apparatus and, as noted above, there are other such units in proximity. I further note the heat pumps are new and recently

installed. They are not older type models reaching redundancy stage, which might otherwise require replacement or new parts.

- 7.1.10. During my site inspection, I observed the location and proximity of the pitched windows and other fixtures on top of the flat roof and their physical relationship next to the heat pumps. However, given the heat pumps are on the opposite side of these windows, relative to the third party property – i.e., to the south – and that they are not covered or enclosed in any way, I not consider it likely that excessive soundwaves or noise could be reflected or bounced back towards No. 13.
- 7.1.11. I acknowledge that the third party states as part of their observation to the Planning Authority that they have taken their own sound readings and that these show excessive noise levels being generated by the heat pumps. However, the readings are not supported by any form of detailed analysis, which would be important to address further relevant factors, including other potential noise sources in the area, weather conditions, intervening ground conditions and the selected measurement location(s).
- 7.1.12. I also would further draw attention to Schedule 2, Part 1, Class 2(d) of the Planning and Development Regulations 2001 (as amended). This relates to exempted development and the installation on, or within the curtilage of a house, of a ground heat pump system (horizontal and vertical) or an air source heat pump and the conditions and limitations required.
- 7.1.13. In summary, I conclude that the omission of Condition 6, which requires an acoustic enclosure around the heat pumps is acceptable and would not lead to an unacceptable level of noise disturbance to nearby residential properties or in the surrounding vicinity. I also consider the reduction of heat pumps on the property from three to two in number satisfactory and that neither of these changes to the relevant permission (ABP-309653-21, Reg. Ref. F20A/0673) would set an undesirable precedent for similar types of development in the area.
- 7.1.14. In relation to the specific issue of precedent, which I note is the Planning Authority's second reason for refusal, I am satisfied in having regard to the circumstances of this case that the proposed development would not set an undesirable precedent for similar future developments in the area and consider that each planning assessment should be based on its own particular circumstances.

7.1.15. Furthermore, and as a rule, all appeal cases should generally be assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

7.2. Appropriate Assessment

7.2.1. Given the nature and small scale of the development proposed, which seeks permission to remove a condition from a previous grant of permission requiring installation of an acoustic enclosure and retention permission to omit a heat pump, and separation distance from the nearest Natura 2000 site, it is considered that the proposal would not be likely to have a significant effect individually or in combination with other plans and projects on a European site and there is no requirement for a Stage 2 Appropriate Assessment.

8.0 Recommendation

8.1. I recommend that Condition No. 6 attached to Board Order ABP-309653-21 (Reg. Ref. F20A/0673), which requires an acoustic enclosure, be omitted; and that retention permission be granted to omit a heat pump such that the total number of heat pumps would be reduced from three to two in number.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2023-2029, including the zoning objective for the site (TC - Town and District Centre), it is considered that, subject to compliance with the conditions set out below, the omission of Condition No. 6 from Board Order ABP-309653-21 (which requires an acoustic enclosure) and a reduction in the total number of heat pumps on the property from three to two, would not significantly detract from the residential amenities of neighbouring properties, or of the surrounding area, and would 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. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under appeal reference numbers ABP-309655-21 (Reg. Ref. F20A/0675), ABP-309653-21 (Reg. Ref. F20A/0673, Reg. Ref. F20A/0675 and Reg. Ref. F17A/0744 and any agreements entered into thereunder.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.</p>

[I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.]

Ian Boyle

Senior Planning Inspector

24th August 2023