



An
Bord
Pleanála

Inspector's Report

ABP-314918-22

Development	Change of use of a residence (no. 9) and unattached outbuilding (no. 9A) to two one-bedroom apartments and all associated site works.
Location	9 Drynam Road, Commons East, Swords, Co. Dublin, K67 T2W9
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0401
Applicant(s)	Eimear Goggins and Ben Goggins.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Eimear Goggins and Ben Goggins.
Observer(s)	No Observers.
Date of Site Inspection	18 th of September 2023.
Inspector	Elaine Sullivan

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. National Policy & Guidelines	10
5.3. Natural Heritage Designations	11
5.4. EIA Screening	11
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Planning Authority Response	13
6.3. Observations	13
7.0 Assessment.....	13
8.0 Recommendation.....	15
9.0 Reasons and Considerations.....	15

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.0492ha and is located on Drynam Road, Commons East in the outskirts of Swords. Drynam Road is a residential street that stretches from the Feltrim Industrial Estate to the Malahide Road roundabout, which is approximately 130m to the north-west of the site. The site comprises a single storey, semi-detached house, (No. 9 Drynam Road), in a row of similar houses. The front elevation of the house is set back from the footpath by approximately 8.5m and the area to the front and side of the house is covered with pebbles with a low-rise boundary wall to the front and side.
- 1.2. To the rear of the house is a separate, single storey, pitched roof structure, which is described as an outbuilding in the application. A wooden pedestrian gate at the front boundary has a number 9 on it and a second wooden gate to the rear of the building at the back has number 9A on it.

2.0 Proposed Development

- 2.1. Planning permission is sought for the change of use of an existing single storey, semi-detached house, and an unattached outbuilding to two no. one-bedroom apartments.
- 2.2. Works required for the change of use would include an extension to the rear of the existing house to provide a single storey structure linking the house and the outbuilding. This would provide a shared entrance lobby with access to each separate unit from the lobby. Each unit would have its own private open space with a communal garden of 65 sq. m to the rear. Two car parking spaces would be provided to the front.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the Planning Authority, (PA), for the following reason:

The proposed layout of the development would result in a cramped form of development on a restricted site which would detract from the residential amenities of the area and would contravene materially the residential 'RS' zoning objective of the subject site which seeks to protect and improve residential amenity. The proposed development, by reason of the internal layout and inadequate separation distance between the two residential units would result in substandard residential amenity for future occupiers of the proposed development which would contravene materially Objectives PM44 and DMS44 of the Fingal Development Plan 2017-2023. The proposed area of private open space to the front of Unit No. 9 would also be contrary to Objective DMS90 of the Fingal Development Plan 2017- 2023. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively seriously injure the visual and residential amenities of the area and 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, (PO), dated the 26th of September 2022 informed the decision of the PA and includes the following:

- The development would materially contravene the residential RS zoning as it would not protect and improve residential amenity due to the substandard layout and location of private amenity space.
- The public notices refer to an existing dwelling and an outbuilding on the sides however floor plan drawings indicate 2 detached dwellings on the site.
- The 2m separation distance between the proposed units would be inadequate and would result in overlooking and lack of privacy for both units.
- Clarification is required regarding the floor areas stated on the application form and on the drawings.

- Unit 9A would have 65 sq. m of private amenity space to the rear, which is acceptable. However, the private open space for Unit 9 would be located to the front of the unit and would not be acceptable.
- An area of communal open space is also shown but is physically removed from both units.
- The layout of the proposal would result in a cramped form of development substandard living accommodation and substandard private amenity.

3.2.2. Other Technical Reports

- Water Services Section – No objection.
- Transportation Section – No objection.

3.3. Prescribed Bodies

- Uisce Eireann – No objection.
- Dublin Airport Authority – No comments
- Irish Aviation Authority – No comments.

3.4. Third Party Observations

- None received.

4.0 Planning History

F09B/0246/E1 – Extension of Duration of Permission for a period of 3 years was granted by the PA on the 16th of December 2014.

F09B/0246 – Planning permission granted by the PA on the 22nd of December 2009 for alterations to development permitted under F08A/1112 to incorporate first floor accommodation to the dwelling to the front of the site together with roof and elevational changes.

F08A/1112 – Planning permission granted by the PA on the 15th of June 2009 for (i) Alterations and minor extension to incorporate the two existing adjoining bungalows

into a single dwelling and (ii) the construction of a single storey over basement dwelling to the rear with associated ancillary site works including a new soakway and associated landscaping. Condition No. 2 of this permission is referenced in the grounds of appeal and states, *'This permission authorises (inter alia) 2 residential units'*.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Fingal County Council. The operative Development Plan for the area is the Fingal County Development Plan, (FCDP), 2023-2029, which came into effect on the 5th of April 2023. The application was assessed by Fingal County Council in accordance with the policies and objectives of the Fingal County Development Plan 2017-2023, which was the operative Development Plan at the time.
- 5.1.2. On review of the contents of both plans I note that there are no material changes between the 2017 County Development Plan and the 2023 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2023 – 2029 Fingal County Development Plan, (FCDP).

The following sections of the **FCDP 2023-2029** are of relevance to the appeal:

Zoning - The subject site is zone Objective 'RS', *'To Provide for Residential development and protect and improve Residential Amenity'*.

Chapter 3 – Sustainable Placemaking and Quality Homes

Objective SPQH035 – Private Open Space - Require that all private open spaces for houses and apartments/duplexes including balconies, patios, roof gardens and rear gardens are designed in accordance with the qualitative and quantitative standards set out set out in Chapter 14 Development Management Standards.

Objective SPQHO37 – Residential Consolidation and Sustainable

Intensification - Promote residential consolidation and sustainable intensification at

appropriate locations, through the consolidation and rejuvenation of infill/brown-field development opportunities in line with the principles of compact growth and consolidation to meet the future housing needs of Fingal.

Objective SPQHO38 – Residential Development at Sustainable Densities -

Promote residential development at sustainable densities throughout Fingal in accordance with the Core Strategy, particularly on vacant and/or under-utilised sites having regard to the need to ensure high standards of urban design, architectural quality and integration with the character of the surrounding area.

Objective SPQHO42 – Development of Underutilised Infill, Corner and

Backland Sites - Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

Chapter 4 – Community Infrastructure and Open Space –

Objective CIOSO53 – Open Space and Privacy - Ensure all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements.

Chapter 14 – Development Management Standards –

Table 14.4 – Infill Development

Proposals for infill development will be required at a minimum to:

- Provide a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage, building heights, building line, grain, and plot width.
- Examine and address within the overall design response issues in relation to over-bearance, overlooking and overshadowing.
- Respect and compliment the character of the surrounding area having due regard to the prevailing scale, mass, and architectural form of buildings in the immediate vicinity of the site.
- Provide a positive contribution to the streetscape including active frontage, ensuring that the impacts of ancillary services such as waste management, parking and services are minimised.

- Promote active street frontages having regard to the design and relationship between the public realm and shopfronts of adjacent properties.

14.7 - Apartment Development / Standards –

Objective DMS024 – Apartment Development - All applications for apartment development are required to comply with the Specific Planning Policy Requirements (SPPRs), the standards set out under Appendix 1 and general contents of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 (or updated guidance as may be in place at the time of lodgement of the planning application).

Table 14.7 – Minimum Requirements for Apartments.

14.7.3 – Internal Storage

14.7.6 – Private Open Space - Private amenity space shall be provided in the form of terrace, balcony or private garden and should be located off the main living area in the apartment. At ground floor level, private amenity space should be sufficiently screened to provide for privacy. Where ground floor apartments are to be located adjoining a public area, consideration should be given to the provision of a ‘privacy strip’ of approximately 1.5m in depth. This should be influenced by the design, scale and orientation of the building and on the nature of the street or public area and if provided, subject to appropriate landscape design and boundary treatment.

14.10.1 – Corner / Infill Development - The development of infill housing on underutilised infill and corner sites in established residential areas will be encouraged where proposals for development are cognisant of the prevailing pattern of development, the character of the area and where all development standards are observed.

Objective DMS032 – Infill Development on Corner / Side Garden Sites -

Applications for residential infill development on corner/side garden sites will be assessed against the following criteria:

- Compatibility with adjoining structures in terms of overall design, scale and massing. This includes adherence to established building lines, proportions, heights, parapet levels, roof profile and finishing materials.
- Consistency with the character and form of development in the surrounding area.
- Provision of satisfactory levels of private open space to serve existing and proposed dwelling units.
- Ability to safeguard the amenities of neighbouring residential units.
- Ability to maximise surveillance of the public domain, including the use of dual frontage in site specific circumstances.
- Provision of side/gable and rear access arrangements, including for maintenance.
- Compatibility of boundary treatment to the proposed site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.
- Impact on street trees in road-side verges and proposals to safeguard these features.
- Ability to provide a safe means of access and egress to serve the existing and proposed dwellings.
- Provision of secure bin storage areas for both existing and proposed dwellings.

5.2. National Policy & Guidelines

National Planning Framework.

- 5.2.1. The NPF 2040 was adopted in 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside. The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

Section 28 Guidelines – Sustainable Urban Housing - Design Standards for New Apartments (Guidelines for Planning Authorities), 2022.

5.2.2. Appendix 1 – Required Minimum Floor Areas and Standards.

5.3. Natural Heritage Designations

5.3.1. No designations apply.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the proposed development, which is for a change of use to an existing building and a small domestic extension, in an urban area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal include the following:

- To address the reasons for refusal the grounds of appeal include some minor amendments to the proposed development. The private open space for apartment No. 9 has been increased from 39 sq. m to 66 sq. m. This area would be screened to comply with Objective DMS 90 of the FCDP 2017-2023. One of the car parking spaces has been moved to the side to improve the amenity of the space.

- An additional window is proposed to the kitchen in No. 9 and would be in the side elevation of the unit. The bedroom and storage area have also been modified to comply with the FCDP 2017-2023.
- The development is fully compliant with the Fingal County Development Plan 2017-2023 with regard to room sizes, private open space and parking spaces.
- The proposed development is of medium density and is compatible with the pattern of development already in the area.
- It is argued in the grounds of appeal that the subject application was informed by the long-term historical use on the site. From 1986 the two units, No. 9 and 9A, though unauthorised as single units, were rented out as separate residential units. The local authority rented both units for several years. In 2010 the two units were taken over by the present residents, who are also the applicants and the children of the original owner.
- The applicant argues that a previous planning permission granted under F08A/112 established the principle of two separate dwellings on the site. The development description for F08A/112 is for (i) Alterations and minor extension to incorporate the two existing adjoining bungalows into a single dwelling and (ii) the construction of a single storey over basement dwelling to the rear with associated ancillary site works including a new soakaway and associated landscaping. Condition No. 2 of the permission states that, *'This permission authorises (inter alia) 2 residential units'*.
- The applicant states that the development would support the overarching objectives of national planning policy regarding the provision of housing which seeks to increase densities in existing settlements.
- The proposal does not affect the character of the existing area as the changes proposed are minor in nature.
- The original house, (No. 9), is in the ownership of Eimear Goggin for which she has title for. Ben Goggins also has title to No. 9A and has lived in, and owns, this building since 2010. Eimear now wishes to dispose of her property without compromising the value of No. 9. In pre-planning consultations, the

Planning Authority did not support the provision of two separate houses on the site due to the lack of a rear garden for No. 9.

- It was considered that the only way forward was to deal with the buildings as one residential unit and to separate and subdivide it into two units which meet all of the Development Plan standards.

6.2. **Planning Authority Response**

- A response was received from the PA on the 17th of November 2022. It states that the PA had no additional comments to make on the appeal.

6.3. **Observations**

- No Observers.

7.0 **Assessment**

7.1. The grounds of appeal can be addressed under the following headings:

- Principle of Development
- Design & Layout
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The proposed development is in accordance with the RS – residential zoning objective for the site and can be assessed against the relevant policies and objectives of the FCDP 2023-2029.

7.3. **Design & Layout**

7.3.1. The application seeks to regularise a historical use on the site and to provide two separate apartment units. I agree with the applicant that the development is representative of national planning policy which seeks to increase density in urban areas through subdivision and utilisation of underused urban sites. The policies and

objectives of the FCDP also favour these initiatives and support the intensification of residential use on urban sites. However, both local and national guidance state that the delivery of higher density development is subject to appropriate site conditions and good design.

- 7.3.2. The works proposed to regularise the development are minor in nature and would involve the construction of a single storey structure to provide a shared lobby. This would provide a shared entrance with two separate doors in order to comply with the definition of an apartment as *'a self-contained residential unit in a multi-unit building with grouped or common access'* as set out in the Sustainable Urban Housing: Design Standards for New Apartment, (Guidelines for Planning Authorities), 2018.
- 7.3.3. I am satisfied that the proposal meets the standards for apartment development which are set out in the Development Plan and in the Apartment Guidelines. However, I am not convinced that the design and layout of Unit 9 would provide a satisfactory standard of amenity for future residents.
- 7.3.4. The design challenge in trying to convert the original house to achieve the required standard of private open space is acknowledged. Due to the site layout and the existing structure to the rear, the private open space for Unit 9 is located to the front of the unit. In order to provide direct access to the space, double doors are provided from the living area. This arrangement compromises the functionality of the living area as it provides a through-route and limits the layout of the room.
- 7.3.5. I would also question the functionality of the private open space to the front given its location directly adjacent to the footpath and the public road. The grounds of appeal propose some additional screening around the front area to ensure privacy, but no details were provided. In the absence of these details, I would have a concern as to how this would look within the streetscape which is open and characterised by low-rise boundary walls. However, should the Board be minded to grant permission, the details of the privacy screen could be agreed by condition.
- 7.3.6. I note that an additional of a communal area to the rear of the site would be provided. However, the functionality and amenity of this space for Unit 9 is questioned given its location and separation from the unit.
- 7.3.7. Whilst the proposal can meet the development standards for apartments as set out in the FCDP and the Apartment Guidelines, I am not satisfied that the proposal

would afford an acceptable level of amenity for future residents by virtue of the layout and location of private open space for Unit 9.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused.

9.0 Reasons and Considerations

The proposed development for the change of use and provision of two apartments, would result in a substandard form of development by virtue of the layout of Unit 9 and the design and location of the attendant private open space for this unit. The proposal would not be in accordance with the policies and objectives of the Fingal County Development Plan 2023-2029 and in particular with, Objectives DMS032 and Objective CIOSO53. It would therefore be contrary to the proper planning and sustainable development of the area.

Elaine Sullivan
Planning Inspector

18th of September 2023