



An  
Bord  
Pleanála

## Inspector's Report ABP- 315492-23

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<b>Development</b>	The construction of a double storey extension to the side of the existing dwelling including a granny flat at ground floor level.
<b>Location</b>	No. 1 Beechfield Lawn, Castaheany, Clonee, Dublin 15.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FW22A/0240.
<b>Applicant</b>	Santosh Chako.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refusal of Permission.
<b>Type of Appeal</b>	First Party v Refusal of Permission
<b>Appellant</b>	Santosh Chako.
<b>Observer(s)</b>	John Reilly. Richard Delaney.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> September 2023.
<b>Inspector</b>	Enda Duignan.

## **1.0 Site Location and Description**

- 1.1.** The address of the appeal site is No. 1 Beechfield Lawn, Castaheany, Clonee, Dublin 15. The site is located on the corner Beechfield Lawn and Beechfield Meadows and comprises an end of terrace double storey dwelling. The end of terrace dwelling has a gable sided pitched roof with a stated floor area of c. 139sq.m. The dwelling is served by an area of amenity space to its front, side and rear which is enclosed by tall hedge to the front and side and a solid wall along the remainder of its side (northern) boundary to the Beechfield Meadows. The dwelling is not served in curtilage car parking. The site has a stated area of c. 0.0352ha.
- 1.2.** In terms of the site surrounds, the area is located within an established residential area which is typically characterised by semi-detached and terraced double storey dwellings of a similar architectural style. A three storey building, comprising duplex style units is located to the south of the site and there is a large area of public open space to the site's south-west on the opposite side of Beechfield Lawn.

## **2.0 Proposed Development**

- 2.1.** Planning permission is sought for the construction of a double storey extension to the side of the existing dwelling. The proposed extension comprises a 'granny' flat at ground floor level and includes a living room, bathroom and bedroom. Internal access is provided which will provide a link between existing dwelling and the 'granny' flat and the 'granny' flat is to be accessed through the dwelling's main entrance.
- 2.2.** At first floor level, the extension comprises 2 no. ensuite bedrooms. The double storey extension has a total floor area of c. 66sq.m. and will have a gable sided, pitched roof form within a maximum height of c. 8.25m, the height of which will match the ridge of the existing roof. Additional floor space is identified within the attic level.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

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

1. The proposed development does not comply with the policy for family flat development in the Fingal County Development Plan 2017-2023 whereby the applicant has failed to demonstrate that the proposed family flat is for a member of the family with a demonstrated need. The development would contravene Objective DMS43 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 Report**

The Fingal County Council Planning Report forms the basis for the decision. The report provides a description of the appeal site and surrounds and provides an overview of the proposed development, the planning history of the site and the policy that is applicable to the development proposal. The report also summarises the observations on the application.

In terms of the principle of a 'family' flat, the Planning Authority note that the intended occupant of the ground floor extension is a family member who is studying at college and therefore does not come with the remit of the Development Criteria for a 'family' flat as detailed in the policy of the County Development Plan. A refusal of permission was therefore recommended.

### **3.2.2. Other Technical Reports**

Water Services Department: Report received stating no objection subject to conditions.

### **3.2.3. Prescribed Bodies**

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

### **3.2.4. Third Party Observations**

Two (2) no. observations were received by John Reilly and Richard Delaney. I note

that both Third Parties are observers to this appeal, and I will discuss the matters raised by each in Section 6 of this report.

## **4.0 Planning History**

**FW22A/0048:** Planning permission refused for the construction of a two-storey extension to the side, comprising of a granny flat at ground floor with living room, bedroom and bathroom interconnected to existing family room, and master bedroom with ensuite and bedroom at first floor level together with associated interior alterations. The application was refused for the following 2 no. reasons:

1. The proposed development does not comply with the policy for family flat development in the Fingal County Development Plan 2017-2023 whereby a separate front door is proposed to serve the family flat, and the applicant has failed to demonstrate that the proposed family flat is for a member of the family with a demonstrated need. The development would contravene Objective DMS43 of the Fingal Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development is at variance with Objective DMS28 of the Fingal Development Plan 2017-2023, as a 22m separation distance between the opposing first floor windows of the subject site and the dwelling to the rear at 16 Beechfield Rise has not been demonstrated. The proposed development would result in overlooking of adjacent residential properties which would be injurious to the amenities and depreciate the value of same, would materially contravene the RS zoning objective for the area in the Fingal County Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

**FW15B/0019:** Planning permission granted for the development comprising an attic conversion with a new rear facing dormer window and 2 no. rear facing velux type roof lights.

## **5.0 Policy and Context**

### **5.1. Fingal County Development Plan, 2023-2029**

The Fingal County Development Plan (CDP), 2023-2029 has been adopted after the decision of the Planning Authority to refuse planning permission. The appeal site is located within an area zoned 'RS' (Residential) of the Plan, the objective of which is to 'Provide for residential development and protect and improve residential amenity'. All lands within the immediate surrounds of the subject site are also zoned 'RS'. The vision for 'RS' zoned lands is to 'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.

The need for people to extend and renovate their dwellings is recognised and acknowledged in the current CDP (Section 3.5.13.1). The policy notes that extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. The following policy and objective are relevant to the development proposal:

- **Policy SPQHP41** – Residential Extensions  
Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.
- **Objective SPQHO45** – Domestic Extensions  
Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Given the nature of the proposed development, Section 3.5.13.2 (Family Flats) is relevant to the consideration of this appeal. The policy notes that family flats are a means of providing additional accommodation with a level of independence for an undefined temporary period of time. Family flats allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling). The policy notes that applications for family flats will be considered favourably subject to criteria set out in Chapter 14 Development Management Standards.

- **Policy SPQHP42** – Family Flats  
Support the provision of family flats on suitable sites within established residential areas subject to specific design criteria.
- **Objective SPQHO46** – Family Flats

Ensure family flats:

- Are for a member of the family with a demonstrated need.
- When no longer required for the identified family member, are incorporated as part of the main unit on site.
- Do not exceed 75 sq m in floor area.
- Comply with the design criteria for extensions, as above.

Further to this, Section 14.10.3 (Family Flats) of the Plan notes that applications will be assessed in terms of the impact on the integrity of the existing dwelling and neighbouring properties and compliance with the following criteria must be demonstrated:

- A requirement for the family flat must be demonstrated including details of the relationship between the occupant of the main dwelling and the occupant of the family flat.
- When no longer requested for use as a family flat, the accommodation must be capable of being subsumed into the main property.
- Any such extension to the main dwelling shall be subsidiary in scale relative to the main dwelling and shall not exceed an internal floor area of 75sq.m.
- The family flat should not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The entrance to the family flat must be via the main dwelling.
- Where own-door access is unavoidable, own-door access shall be located to the side or rear.
- No sub-division of the garden is permitted.

## **5.2. Natural Heritage Designations**

5.2.1. There are no designated sites within the immediate vicinity of the appeal site.

## **5.3. EIA Screening**

5.3.1. The proposed development does not fall within a Class of Development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), therefore no EIAR or Preliminary Examination is required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A First Party appeal has been prepared and submitted on behalf of the Applicant. The grounds of appeal can be summarised as follows:

- In terms of the relevant policy of the County Development Plan for Family Flats, it is stated that the definition, nor the criteria relating to the assessment of demonstrated need is outlined in the Development Plan and it would appear that the determination of demonstrated need is subjective. The Applicant refers to precedent cases within Fingal where permission has been granted for family flats without a demonstrated need being shown.
- It is stated that the Applicant applied for planning permission for a family flat to provide separate living quarters for his sister-in-law. The Applicant's sister-in-law is academically orientated and currently studying for a masters, after which she will pursue further studies. It is stated that she is not generating sufficient income to support herself in independent residential accommodation and it is intended to provide accommodation for her in which she can study and entertain at home without being distracted by young children. In refusing permission on the grounds that a demonstrated need had not been shown, it is stated that the Planning Authority failed to realise the extraordinary financial pressure endured by students pursuing academic careers in an environment where there is a housing shortage. It is stated that it is the Applicant's intention that the house would remain a family home and the proposed accommodation could at some future stage be used to accommodate the parents of either spouse.

### **6.2. Planning Authority Response**

A submission was received from the Planning Authority on 7<sup>th</sup> February 2023 which indicates that they have had regard to the items raised in the First Party appeal and the Board is requested to uphold the decision to refuse permission.

### **6.3. Observations**

Two (2) no. observations were received by John Reilly and Richard Delaney. The matters raised in the observations can be summarised as follows:

*Richard Delaney*

- Concerns raised with respect to overlooking from the proposed development.
- Concerns raised with respect to foul drainage and associated problems with rodents.
- Concerns that wooden cabins will be constructed on the appeal side and fire related risks.
- The observer questioned the need for an extension of this scale and concerns raised with respect to overshadowing impacts.
- It is contended that the proposal will result in on-street car parking pressures.

*John Reilly*

- The observer questions the Applicant's claim that it is proposed to provide a granny flat given the proposal seeks to double the footprint of the original property.
- It is stated that the sewage pipework which all properties are connected to is not designed to take any additional load. It is stated that the existing sewage pipework has been blocked in the past which means the back garden of this property gets damaged with sewage coming back up through the inspection chambers which in turn has created an issue with rodents.
- Concerns raised with respect to the scale of the proposed development.
- It is highlighted that car parking at this location would become more dangerous and it is noted that fire trucks and refuse bin collection trucks will struggle to get around the corner and could lead to a traffic hazard.
- Concerns highlighted that the proposal will negatively impact the residential amenity of the observer's property by reason of overlooking and overshadowing.

**6.4. First Party Response**

None.

**6.5. Further Responses**



None sought.

## **7.0 Assessment**

The main issues to be considered are those raised in the First Party's grounds of appeal, the Planning Report and the consequent reason for refusal and 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 & Compliance with Development Plan Policy
- Appropriate Assessment.

### **7.1. Principle of Development & Compliance with Development Plan Policy**

7.1.1. The proposed development seeks planning consent for the construction of a double storey extension to the side of the existing dwelling. The proposed extensions comprise a family flat at ground floor level with 2 no. additional ensuite bedrooms at first floor level to serve the main dwelling. It is noteworthy that the Planning Authority had not raised any concerns with respect to the scale, design or form of the proposed extensions. Although the Third Party observers to the appeal have raised issues with respect to the scale of the proposed development and its potential impact on the residential amenity of surrounding residences, I would concur with the Planning Authority's assessment and I am satisfied that the corner site in question can readily accommodate an extension of this scale.

7.1.2. Whilst the principle of the proposed development was considered by the Planning Authority to be in accordance with the 'RS' zoning objective for the site, the application has been refused as it was not considered to comply with the policy for family flat development in the Fingal County Development Plan (2017-2023). In this case, the Applicant had failed to demonstrate that the proposed family flat was for a member of the family with a demonstrated need. Within their grounds of appeal, the Applicant's submission indicates that the proposed family flat will provide separate living quarters for the Applicant's sister-in-law who is currently attending university and is not generating sufficient income to support herself in independent residential accommodation. The intention is to provide accommodation for her in which she can

study and entertain at home without being distracted by young children.

- 7.1.3. Within their assessment of the application, the Planning Authority acknowledge that the proposed family flat will serve a family member who is studying in college. However, this was not considered to come within the remit of the Development Plan criteria. Section 3.5.13.2 (Family Flats) of the current CDP notes that family flats allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling). It is evident that the proposed development meets many of the relevant development management criteria for family flats (Section 14.10.3). The family flat is capable of being subsumed into the main property. The flat is subsidiary in scale relative to the main dwelling and it does not exceed an internal floor area of 75sq.m. In addition, it is my view that the proposed development will not impact adversely on either the residential amenities of the existing property or the residential amenities of the area given its overall scale, design and form which I have discussed above. Further to this, the entrance to the family flat is via the main dwelling. Although the development meets many of these criteria, the policy of the current CDP is clear, insofar as a family flat must be for an immediate family member i.e. a person who is dependent on the main occupants of the dwelling. In this instance, it is evident that the intended occupant of the family flat is not an immediate family member who is dependent on the main occupants of the dwelling i.e. the Applicant. Although I am satisfied that the size of the site is suitable for an extension of this scale and form, it is my view that that proposed development does not comply with the relevant criteria for family flats as prescribed in the CDP. For this reason, the proposed development fails to accord with Policy SPQHP42 and Objective SPQHO46 of the Fingal County Development Plan, 2023-2029 and should therefore be refused planning permission.

## **7.2. Appropriate Assessment**

- 7.2.1. Taking into consideration the modest nature, extent and scope of the proposed development 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**

I recommend that the planning application be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. The proposed development fails to accord with the policy for family flat development in the Fingal County Development Plan, 2023-2029, whereby the Applicant has failed to demonstrate that the proposed family flat is for an immediate member of the family with a demonstrated need. The proposed development is contrary to Policy SPQHP42 and Objective SPQHO46 of the Fingal County Development Plan, 2023-2029 and would therefore be contrary to the proper planning and sustainable development of the area.

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.

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Enda Duignan  
Planning Inspector

25/09/2023