



An
Bord
Pleanála

Inspector's Report

ABP-316045-23

Development	Construction of a garage for the storage of classic cars with dormer accommodation over and associated works.
Location	44 Abington, Malahide, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0703
Applicant(s)	John O'Kelly
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	First Party vs condition
Appellant(s)	John O'Kelly
Observer(s)	None
Date of Site Inspection	09/06/23
Inspector	Adrian Ormsby

1.0 Site Location and Description

1.1. The appeal site is located in an established private style residential estate known as Abington c. 2km west of Malahide and c. 3km south east of Swords. The site includes a large dwelling and existing garage style structure along the northern boundary to the front of the house. There is another smaller garage/shed structure to the front of the house along the southern boundary. Existing buildings on the site have a stated floor area of 693.96 sq.m. The site is bounded by similarly large sites with houses and ancillary structures on its north, southern and eastern boundaries. Mature landscaping surrounds the site with a gated entrance from the access road. The stated site area is 0.2147 ha.

2.0 Proposed Development

2.1. The proposed development comprises of -

- A garage to the rear of the existing house for storage of classic cars
- The garage has a proposed floor area of 210 sq.m with a ridge height of 7.563m.
- It provides first floor space of 90 sq.m described as “dormer roof accommodation over” with floor to ceiling height of 2.6m.
- The ground floor is 120 sq.m with floor to ceiling heights of 3m and provides toilet facilities.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission on the 16/02/23, subject to seven conditions, generally of a standard nature and including-

- *C2- “A revised site layout plan and elevational drawings of the proposed garage shall be submitted for the written agreement of the Planning Authority illustrating the relocation of the proposed garage centrally at the rear of the*

site, at least 10m from both side boundaries and the omission of the proposed dormer windows on the side (south eastern) elevation.

REASON: In the interests of residential amenity.

- *C3- The garage shall be used solely for use incidental to the enjoyment of the dwelling house and shall not be sold, rented or leased independently of the house and shall not be used for the carrying on of any trade or business.*

REASON: In the interest of the proper planning and sustainable development of the area.

- *C4- The garage shall not be used as guest or sleeping accommodation and any kitchen, shower or bath installation into the structure shall require a grant of planning permission from Fingal County Council or An Bord Pleanala on appeal.*

REASON: In the interest of the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Reports

The CE planning report generally reflects the decision of the Planning Authority. The following summarised points are noted-

- The development description describes the garage as single storey however this is considered misleading as there is a first floor with a floor to ceiling height of 2.6m.
- The proposed garage is substantial in size. The site is generous and can accommodate a garage of this size. It is situated less than 10m from the rear elevation of No.36 Abington and may be overbearing and cause undue negative visual impact on neighbouring property.
- If the garage is centralised along the rear boundary that its impact will be reduced from neighbouring properties.

4.2. Other Technical Reports

- Water Services- No objection subject to condition
- Transportation- No objection

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

- None

5.0 Planning History

- None recent

6.0 Policy Context

6.1. Fingal County Development Plan 2023-29

- 6.1.1. The Planning Authority assessed this application under the provisions of the Fingal County Development Plan 2017-2023 (CDP).
- 6.1.2. The Fingal Development Plan 2023 – 2029 was made on 22nd February 2023 and came into effect on 5th April 2023.
- 6.1.3. The site is zoned 'RS Residential' with an objective to *“Provide for residential development and protect and improve residential amenity”*. This zoning is described in chapter 13 of the CDP with a vision to *“Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.”*
- 6.1.4. The same section details use classes permitted in principle and not permitted within this zoning. Vehicle Servicing/ Maintenance Garage is not permitted.
- 6.1.5. The CDP does not appear to make any specific provision for developments of the type proposed. Section 14 sets out Development Management Standards. Section

14.10.2 deals with Residential Extensions with sub paragraph 14.10.4 dealing with garden rooms and states-

‘Garden Rooms can provide useful ancillary accommodation such as a playroom, gym, or study/home office for use by occupants of the dwelling house.’

It is reasonable to consider the proposal against this standard which further states-

‘Such structures should be modest in floor area and scale, relative to the main house and remaining rear garden area. Applicants will be required to demonstrate that neither the design nor the use of the structure would detract from the residential amenities of either the main residence or of adjoining property. External finishes shall be complementary to the main house and any such structure shall not provide residential accommodation and shall not be fitted out in such a manner including by the insertion of a kitchen or toilet facilities. Such structures shall not be let or sold independently from the main dwelling’.

6.2. Natural Heritage Designations

- None relevant

7.0 The Appeal

7.1. Grounds of Appeal

A first-party appeal has been lodged against condition no. 2 which was attached to the Planning Authority’s notification of a decision to grant planning permission. The grounds of appeal can be summarised as follows-

- The appeal provides an assessment of overbearing and negative impact on No. 36 Abbington (adjoining house to the rear which is closest to the development.
- The garage will be c 9.6m from No. 36 at its closest point. There is substantial mature vegetation along the boundary between the two properties. An

illustration is provided of the proposal from within the application site against the vegetation background.

- A shadow analysis has been carried out. Due to the orientation and scale of the development there will be very little overshadowing caused by the proposed garage. Any overshadowing will be late in the evening, towards the middle of March and October.
- Shadow study document accompanies the appeal.
- In terms of overlooking no windows face towards No.36 apart from Velux rooflights which are at a high level and will be fitted with opaque glazing.
- There are a number of large structures located to the side/rear of properties granted planning permission. Location and reference numbers are provided. These are from 2002 – 2008. The structure granted along the sites western boundary is far larger than currently proposed- F04A/1420.
- There is no justification for the removal of the southern facing dormer windows as these face into the applicant's property with the nearest other property 37m away and heavily planted with mature vegetation.

7.2. Planning Authority Response

- The application was assessed against the policies and objectives of the Fingal Development Plan 2017-2023, and existing government policy and guidelines. The proposal was assessed having regard to the development plan zoning objectives as well as residential and visual amenity and development management standards and the character of the area.
- The Planning Authority remains of the opinion that the conditions attached for minor amendments to the proposal and its revised location are necessary to reduce the impact on surrounding residential amenity.
- Subject to conditions, it is not considered that the proposed development will impact negatively on the site or surrounding properties in terms of visual or residential amenity.

- The development of this ancillary structure to the house is large in scale and so its impact on neighbouring properties needs to be ameliorated by the slight change in position.

7.3. **Observations**

- None

8.0 **Assessment**

8.1. **Introduction**

8.1.1. This is a first-party appeal against Condition No. 2 attached to the Planning Authority's decision to grant permission. Having regard to the nature and scale of the proposed development and the content of condition no. 2, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

8.1.2. In terms of the principle of the development, I note that 'Vehicle Servicing/Maintenance Garage' is a use that is not normally permitted in lands zoned 'RS' Residential. The cover letter accompanying the application details the upper floor is to be used for storage and maintenance purposes. Having considered the contents of the application and the conditions of the Planning Authority I am satisfied the proposed development is not for a 'Vehicle Servicing/ Maintenance Garage' in a typical sense and instead is a structure for use ancillary to the main residential property and is therefore consistent with the 'RS' Zoning.

8.2. **Condition 2**

8.2.1. The Planning Authority have imposed condition 2 in the interest of residential amenity. This is further explained in the CE Report and their response to the appeal in which they raise overbearance and a negative visual impact from neighbouring property as the main concerns. Omitting the dormer window on the stated side (south-eastern elevation) is detailed as necessary to ensure no overlooking of

neighbouring property to the south from the relocated garage rather than the proposed location.

- 8.2.2. Having reviewed the submitted drawings it appears the Planning Authority's intention was to omit the side window on the southern elevation rather than south-eastern as stated in the condition.
- 8.2.3. The Applicant argues the condition is unjustified and that large structures have been permitted in the general area. I note these all appear to have been permitted some time ago under the provisions of development plans no longer in operation.
- 8.2.4. The application proposes a garage for the storage of classic cars and dormer accommodation at first floor level. The cover letter accompanying the application details the upper floor will be used for storage and maintenance purposes.
- 8.2.5. I have visited the site and viewed it from its front boundary as well as from the front of No. 36 Abington located to the east and to the rear of the application site. While I was unable to access the property Ordnance Survey Geohive aerial photography¹ suggests an area of hardstanding suitable for vehicles exists at the site and extends from the front of the property to the rear boundary where the garage is proposed. This is supported by the drawings and photographs in the appeal. I note a large two storey style garage and another smaller shed like structure (not shown in the drawings) already exist to the front of the house.
- 8.2.6. The proposed garage has a floor area of 210 sq.m and a ridge height of 7.563m. It is designed with a pyramidal style roof with two dormer style windows to the west (front) elevation and two to the south (side) elevation in keeping with the main house and larger garage on site. There will also be 7 rooflights to the east (rear) elevation and seven rooflights to the north (side elevation) of the proposed structure. The eaves of the structure appear to be c. 4.5m high. The walls of the structure appear to be located 1.458m off the eastern boundary and 1.83 m of the northern boundary with the overhang of the roof giving the impression the structure is closer to the boundaries on the drawings. The pyramidal design of the roof profile reduces the visual bulk of typical pitched or hipped roof structures.

¹ <https://webapps.geohive.ie/mapviewer/index.html> Basemap Gallery- Map Genie 2013-2018- accessed on the 09/06/23

- 8.2.7. Condition 3 of the permission requires the garage to be used solely for use incidental to the enjoyment of the dwelling house. Condition 4 details the garage shall not be used as guest or sleeping accommodation. The Applicant has not appealed these conditions. In this context and having considered the contents of section 14.10.4 of the CDP I am satisfied the provisions for 'Garden Rooms' should equally apply to the proposed development.
- 8.2.8. The proposed structure is large in floor area and scale however it is modest relative to the scale of the site and other structures in the area. It is located to the rear of the main house and will not have a negative visual impact from the access road to the front of the site or the access road serving houses to the east of the site.
- 8.2.9. However, it is a large structure proposed in close proximity to the northern and eastern site boundary and with the private amenity spaces of neighbouring properties. In the case of No. 36 the walls of the structure will be c. 9.6m to that house at its closest point with the roof overhang closer still. The drawings detail the existing boundary includes trees and hedging. I was able to observe mature trees from the access roads. Such boundary treatment would provide some degree of mitigation from the visual impact.
- 8.2.10. Given the height, scale and proximity of the proposed garage to No. 36 I am not convinced such mitigation can solely be relied upon to negate overbearance and negative impacts upon existing visual amenity. From my inspection the trees referred to appear to be deciduous. The type, height and health of the trees are not detailed in the application. I also refer the Board to the photo submitted with the appeal where it appears an existing hedgerow within the site and along the boundary may need to be removed to facilitate the development. In this context I am not satisfied the drawings adequately show existing and proposed boundaries within the site. Accordingly, I share the Planning Authority's concerns in relation to overbearance and negative impacts upon existing visual amenity especially to No. 36.
- 8.2.11. The Planning Authority seek to relocate the structure southwards in the site to a more central point of the rear garden at least 10m from the northern and southern boundary but remaining along the eastern boundary. This will move the location of the structure along the site boundary to an area adjoining a large area of private amenity space of No. 36. For me, given the size of the proposed structure, concerns

of overbearing and visual impact would remain to this private amenity space, which also appears to be the primary area of external amenity to No. 36 (as supported the OS aerial photography referred to earlier).

- 8.2.12. The Appeal seeks to address the Council's concerns by highlighting the existing mature landscaping, submitting a shadow assessment and addressing overlooking from the existing location rather than that of the condition. The appeal does not adequately address the visual impact of the proposal from within neighbouring properties.
- 8.2.13. The site is certainly capable of absorbing a garage with a large floor area. However the structure as proposed in close proximity to the sites rear and side boundary would be likely to have a domineering, visually obtrusive and overbearing impact upon the adjoining neighbouring properties especially to the east. I do not consider existing mature landscaping as detailed in the application and appeal as sufficient mitigation in this context. I am not satisfied the proposal adequately protects and improves residential amenity and as required by the 'RS' Residential zoning.
- 8.2.14. Condition 2 should be **amended** to permit the structure generally at the location originally proposed (noting the existing area of hard standing to this point) but with a slight amendment to set the walls of the structure at least 2.5m off both the eastern and northern boundaries. The nature of the proposed roof profile and this relocation would ameliorate overbearing and negative visual impacts upon existing visual and residential amenity. West and South facing dormer windows would not lead to overlooking concerns.

8.3. **Appropriate Assessment**

- 8.3.1. Having regard to the nature and scale of the proposed development and the distance from the nearest 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.

9.0 **Recommendation**

- 9.1. Having inspected the site and reviewed the drawings and documents on file, I am satisfied that the determination by the Board of this application as if it had been

made to it in the first instance would not be warranted. Accordingly, I consider that it would be appropriate to use the provisions of Section 139 of the 2000 Act, as amended. I recommend that Condition 2 should be **AMENDED** as follows-

The proposed development shall be amended as follows:

- a) The external facing walls of the garage shall be relocated at least 2.5m of the northern and eastern site boundaries.

Revised drawings and details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

10.0 Reasons and Considerations

10.1. Having regard to the nature and scale of the proposed development, the 'RS' zoning objective for the site to '*provide for residential development and protect and improve residential amenity*', the pattern of development in the area and the provisions of the Fingal County Development Plan 2023-2029, it is considered that the proposed development subject to condition, would not seriously injure the residential and visual amenities of the area and would therefore, be in accordance with the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

09/06/2023