



An
Bord
Pleanála

Inspector's Report ABP 317474-23

Development	Construction of single storey granny flat to side and ancillary site works
Location	15 Dun Emer Court, Lusk, County Dublin. K45 DD77
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0076.
Applicant	Clive Barry.
Type of Application	Permission
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party X Condition No 2
Appellant	Clive Barry.
Date of Site Inspection	22 nd August, 2023
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
4.0 Planning History.....	4
5.0 Policy and Context.....	4
5.1. Development Plan.....	4
5.2. EIA Screening	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	6
7.0 Assessment.....	7
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	9
10.0 Conditions	10

1.0 Site Location and Description

The application site which has a stated area of 0.0192 hectares is that of an end of terrace two storey house with a stated floor area of one hundred square metres. The space at the side of the dwelling was partially covered over at the time of inspection.

It is located at the northern end of Dun Emer Court, a *cul de sac* accessed from Dun Emer Road/Killhedge Lane at the edge of Lusk. To the west side are the rear gardens of terraced houses in Dun Emer Green and the rear gardens of similar houses in Kelly Park are to the north.

2.0 Proposed Development

The application lodged with the planning authority indicate proposals for construction of a single storey 'granny flat' extension at the side of the house. The total stated floor area is 23.5 square metres. The lodged floor plans show a bedroom with patio doors opening into the rear garden, , a bathroom and a dining kitchen area at the front. An internal door is shown for access to the existing dwelling beneath the staircase. A separate entrance is also shown in the front elevation of the proposed granny flat.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 15th June, 2023, the planning authority decided to grant permission subject to conditions which include the appealed condition according to which the entrance from the front is to be omitted and replaced with a window. The other conditions are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

On the planning officer's recommendation, an additional information request was issued in which the applicant was requested:

to advise of the relationship between the intended occupant and the occupants of the main dwelling and the reasoning for the need for the granny flat accommodation and,

to address the planning authority's concerns as to the development's failure to integrate satisfactorily with the main dwelling and omission of the front entrance door is recommended.

In the final report the planning officer indicates no objection in principle with regard to the intended occupancy but states that the proposed development would not be consistent with Section 14.10.3 of the CDP in which there is a requirement for the entrance to a granny flat within the main dwelling. (See section 5 below) He recommended a grant of permission subject to inclusion among the conditions of a requirement for omission of separate front entrance door and for its replacement with a window.

3.2.2. Other Technical Reports

The reports of the Water Services Department and the Transportation Department indicate no objection subject to standard requirements.

The report of Uisce Eireann indicates no objection subject to standard requirements.

4.0 Planning History

There is no record of planning history for the application site property,

5.0 Policy and Context

5.1. Development Plan

The operative development plan is the Fingal County Development Plan, 2023-2028 according to which the site is subject to the zoning objective:- *"To provide for residential development and protect and improve residential amenity."*

It is the policy of the planning authority to support development of extensions to dwellings in an appropriate scale, subject to protection of residential and visual amenities. (Policy SPQHP41) and it is the objective to encourage sensitively

designed extensions which do not negatively affect the environment or adjoining properties or the area.

Objective 14.10.2 provides for acknowledgement to need for housing to be adaptable to changing circumstances and widespread support for reconfiguration and extensions subject to safeguards is indicated.

Section 14.10.3 contains criteria for consideration of proposals for family flats according to which:-

“A family flat refers to the provision of accommodation connected to an existing dwelling with a level of independence for an undefined temporary period. This may involve the subdivision of a single dwelling, provision of an extension or conversion of a garage attached to the main dwelling, where the use is for a member of the immediate family (e.g. elderly parent).

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 75 sq. 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. EIA Screening

Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by the applicant on his own behalf on 30th June, 2023 according to which:-

- Mr. Barry who intends to occupy the granny flat is selling his own house but wishes to retain independence and needs a separate entrance door for his own use and for use by visitors.
- A front door was permitted at a similar development elsewhere (P. A Reg. Ref. F22A/6233 refers.)
- A front door was permitted And at No 1 Dun Emer Court and also at P. A Reg. Ref. F04A1560 refers.)
- There is no objection to the requirement to revert the granny flat to us as part of the existing dwelling at a future date.

6.2. Planning Authority Response

A submission was received from the planning authority on 24th July, 2023 according to which Condition No 2 is reasonable. It is stated that:-

Access may be gained via the front entrance hall of the main dwelling and the accommodation is otherwise self-contained offering a high degree of independence for the occupant.

The development permitted under P. A. Reg. Ref. F22A/0623 is not directly comparable.

The development permitted under P. A. Reg. Ref. F04A/1560 is subject to a Condition in which there is requirement for the front entrance to be omitted and a single common entrance to be provided.

It is requested that the planning authority decision to grant permission subject to conditions which include Condition No 2 be upheld.

7.0 **Assessment**

7.1. The appeal can be considered below under the following subheadings:-

Consistency with the provisions of the Development Plan

Precedent

Other issues.

Appropriate Assessment

Consistency with the provisions of the Development Plan

7.2. The proposed development incorporates a separate entrance in the front elevation for the proposed granny flat in addition to an internal door shown on the plans as being located beneath the staircase. It is clear that the inclusion of a separate entrance door in the front elevation conflicts with section 14.10.3 of the CDP according to which access is to be provided internally from within the main dwelling with exceptions being allowed for where 'own door' access is unavoidable. It is not accepted that own door access is unavoidable in that it is feasible to provide for an internal access from the entrance hall to the kitchen dining area in the proposed granny flat.

7.3. The separate own door entrance is in the front elevation and as such the two entrances alters the presentation of the dwelling itself and compromises its integration within the terrace of dwellings along the cul de sac.

Precedent

- 7.4. It is agreed with the planning officer that the permitted development under P. A. Reg. Ref. F22A/0623 at a property at Kelly's Bay in Skerries is not directly comparable for the purposes of taking precedent. This permitted development is not a granny flat development. An internal interconnecting door with the existing house is shown and the main living space is extended out into the rear garden providing for enlarged living, kitchen and dining space. Further to issue of an additional information request similar to that issued in respect of the current proposal seeing clarification as to the intended occupancy permission was granted for the development and a condition was included restricting the use to use as a single dwelling unit.
- 7.5. It is not agreed that precedent for the case made in the appeal can be taken from the grant of permission under P. A. Reg. Ref. F04A/1560 The development permitted relates to a similar development proposal at No 1 Dun Emer Court, in which a separate independent front entrance was included. However the grant of permission includes conditions with requirements for the front entrance door to be omitted and replaced with a window in the proposal is subject the requirement for the front entrance to be omitted as indicated under Condition No 8 according to which the separate entrance is to be omitted and a common entrance for it and the existing dwelling is to be provided. A compliance submission for revised drawings is required and the condition.
- 7.6. In addition, according to Condition No 7 the granny flat when no longer required for such occupancy shall revert to use as the main dwelling unit and under Condition No 9 separation from the main dwelling by of sale letting or otherwise is not permitted.
- 7.7. The planning authority's determination of a decision to grant permission for the current proposal is similar.

Other issues.

- 7.8. It is noted from the order attached go the planning authority decision that the conditions do not include requirements for reversion of the development to incorporation into the main dwelling and, to preclusion of subdivisions, sale or subletting.
- 7.9. The planning authority has requested that a Development Contributions Scheme condition be attached, and it is open to the Board to include a development

contribution if permission is granted to enable the planning authority to review the proposed development in this regard

- 7.10. However, according to the current adopted, Development Contributions Scheme, new extensions to existing dwellings are subject to payment of contributions based on gross floor area. This is subject to the Exemptions and Reductions set out in paragraph 11 (a) according to which the first forty square metres of extensions at a dwelling is included among the exemptions. The proposed extension has a stated floor area of 23.5 square metres.

Appropriate Assessment Screening

- 7.11. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built-up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. Although the appeal is solely against the requirement for omission of the own door access under Condition No 2 it is recommended that it be determined on a *de novo* basis, that is, as if the application was submitted to the Board in the first instance instead of under the provisions of Section 139 of the Planning and Development Act, 2000, as amended. It is therefore recommended that the planning authority decision be upheld but it is noted that some standard requirements are not included on the Order attached to the planning authority's decision. It is recommended that the requirements for omission of the own door entrance under Condition No 2 be included by condition and that additional conditions with standard requirements for granny flat development also be attached.

9.0 Reasons and Considerations

Having regard to the site location in an established suburban area, to the established pattern and character of development in the vicinity and to the size, form, and design

of the proposed extension, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties or the visual amenities of the area and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 17th May, 2023 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.

2. The own door entrance in the front elevation shall omitted and replaced with a window. Access to the granny flat shall be confined to use of an internal access door within the main dwelling only. Prior to the commencement of the development the applicant shall submit and agree revised plan and front elevation drawings in writing with the planning authority.

Reason. To ensure consistency with the provisions of section 14.10.2 of the Fingal County Development Plan, 2023-2028 and the proper planning and sustainable development of the area.

3. The occupancy of the granny flat extension shall be solely for the purpose proposed and it shall revert to use as part of the main dwelling when no longer required for such occupancy.

Reason: To ensure consistency with the provisions of section 14.10.2 of the Fingal County Development Plan, 2023-2028 and the proper planning and sustainable development of the area.

4. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.
5. Reason: In the interest of clarity and the sustainable development of the area
6. The developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

7. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

8. Details of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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.

Jane Dennehy
Inspector
24th August, 2023.