



An
Bord
Pleanála

Inspector's Report ABP-318472-23

Development	Construction of a pool house extension at basement level, extension of ground floor terrace to rear, removal and replacement of external steps to side and all associated site works.		
Location	Cliff Haven (formerly Carnalea), Thormanby Road, Howth, Co. Dublin, D13 H972.		
Planning Authority Ref.	F23A/0519		
Applicant(s)	Patrick O' Sullivan		
Type of Application	Permission	PA Decision	Grant with Conditions
Type of Appeal	Third Part Party	Appellants	Ciara Ni Laoi on Behalf of Hillwatch
Observer(s)	Paul & Aoife Hill		
Date of Site Inspection	17/05/2024	Inspector	Terry O' Leary

Context

1. Site Location and Description. The application site is located at Thormanby Road, Howth, Co. Dublin and Howth Village is located to the north of the subject property. The subject site comprises of c. 0.2466 Hectares and is surrounded by large established residential dwellings on proportionately sized sites.

2. Description of development.

- The construction of a pool house extension at basement level to the rear of the existing dwelling house to include a swimming pool room and associated ancillary rooms.
- The inclusion of a new roof terrace over the swimming pool room and the inclusion of a canopy over an external hot-tub area to the southern rear side of the proposed extension.
- The proposed development creates a new stair connection from the existing ground floor terrace to the basement level garden incorporating the proposed swimming pool room extension.
- The removal of existing external steps to the side of the existing dwelling.
- The lowering of the existing rear garden to accommodate the new pool house extension and the provision of new landscaping and surface water drainage installations and all associated site works.

3. Planning History.

ENF 18/09B – This relates to an open enforcement proceeding in relation to lands in the ownership of the planning applicant.

F19A/0447 – Planning permission granted for alterations to a previously approved development under Planning Reference F16A/0225. This permission was granted by Fingal County Council and the decision to grant was upheld on appeal subject to removal of Condition 4 of that permission.

F18A/0145 – Permission and retention permission for alterations to a previously approved development under Planning Reference F16A/0225. The permission was granted but the retention element was refused.

F17A/0563 – Permission and retention permission for alterations to a previously approved development under Planning Reference F16A/0225. The permission was granted by Fingal County Council.

F16A/0225 – Permission for the demolition of an existing dwelling and construction of a new replacement 6-bedroom dwelling with basement. The permission was granted by Fingal County Council.

4. National/Regional/Local Planning Policy

4.1 National Planning Framework

Project Ireland 2040 comprises the National Planning Framework (NPF) and the National Development Plan (NDP). The NPF is the Government's high-level strategic vision for shaping future growth and development in the entire country over a 20-year period. The NPF sets out a targeted pattern of growth for the Eastern and Midlands Region and Dublin City and these growth figures inform the delivery of national policy expressed in the NPF and the delivery of the Regional Spatial and Economic Strategies.

4.2 Regional Spatial & Economic Strategy 2019 - 2031

Regional Spatial and Economic Strategy 2019–2031 The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly area sets out a strategic plan and investment framework to shape development and manage planning in the Region. The RSES translates the NPF objectives and the growth and settlement strategy at the regional level, ensuring coordination between the NPF and each County Development Plan. The RSES identifies the region's challenges as the need to sustain economic growth whilst transitioning to a low carbon society and the requirement to align population growth with the location of homes and jobs whilst creating healthy attractive places and an enhanced quality of life. The RSES is underpinned by three cross cutting principles; healthy placemaking, climate action and economic opportunity, which is incorporated into all facets of our new Development Plan. The growth strategy for the Region supports the continued sustainable growth of Dublin and its transition to a low carbon, climate resilient and environmentally sensitive region in accordance with the Metropolitan Area Strategic Plan (MASP), which forms part of the RSES.

4.3 Fingal Development Plan 2023 – 2029 (Current Plan)

The subject site has a split zoning and these zonings are as follows; 'RS – Residential' and this objective "provides for residential development and protect and improve residential amenity" on the northern side of the site.

‘HA – High Amenity’ and this objective seeks to “protect and enhance high amenity areas” and this zoning objective relates to the southern side of the site.

Section 14.10.2 on Residential Extensions

The need for housing to be adaptable to the changing family circumstances is recognised and acknowledged and Fingal County Council will support applications to amend existing dwelling units to reconfigure and extend as needs of the household change, subject to specific safeguards. In particular, the design and layout of residential extensions must have regard to and protect amenities of adjoining properties, particularly in relation to sunlight, daylight and privacy.

The following policy and objective relate specifically to residential extensions;

Policy SPQH41 – Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential amenities.

Objective SPQHO45 – Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

4.4 Howth Special Amenity Order Area (SAAO)

The proposed development is within the Howth SAAO with the area contained in Map B of the Order comprising the designation of heathland and maritime grassland and that designation overlaps with the zoning objective in the Fingal Development Plan (2023-2029) of High Amenity. The area of the proposed site contained in Map A of the SAAO states that the objective for that area is to preserve the beauty and distinctive natural character of the area.

5. Natural Heritage Designations

There are no protected structures / NIAH registered buildings or recorded national monuments within close proximity of the sites according to the Fingal County Council GIS system.

6. Development, Decision and Grounds of Appeal

PA Decision.

Fingal County Council granted planning permission for the proposed development on the 23rd October 2023 subject to 9 conditions.

7(a). Third Party Appeal of Ciara Ni Laoi on Behalf of Hillwatch

Ciara Ni Laoi of 'Hillwatch', c/o. Seabarm, Strand Road, Sutton, Dublin 13 submitted a third-party appeal to An Bord Pleanála on the 16th November 2023 against the decision of Fingal County Council to grant planning permission F23A/0519. The appeal states that Hillwatch is a group of many years standing with members involved in the establishment of the Howth Special Amenity Area and that members are engaged on the management committee of the Special Amenity Area since its foundation.

Grounds of appeal:

- Concerned about the whittling away of the landscape by the construction of very large houses close to the Cliff Path.
- The site is within a Coastal Landscape Character Area and categorised as being highly sensitive to development.
- Believes that the proposed development will almost double the footprint of the existing dwelling, alter the landscape and extend into the heathland which would radically contravene the basic objectives of the Howth Special Amenity Area Order.
- References the fact that no visual assessment of the proposed development has been completed and that this specifically contravenes Objective 2.1 of the Howth Special Amenity Area Order which prescribes that applicants for planning permission must take into account the visual impact of proposals on views and prospects from these paths and roads and set out in Map B of the Order.
- Cites a concern regarding the opinion of the Chief Executive Report from Planning Permission F23A/0519 that requesting a visual impact assessment would be onerous.

- Welcomes the decision of An Bord Pleanála to refuse permission in the case of planning application F22A/0329 where no visual impact assessment was provided.
- Refers to the ongoing enforcement proceeding in relation to an unauthorised structure on the site.

7(b). Submission on the Appeal by the Planning Applicant

As a party to the appeal under Section 129 of the Planning & Development Act, 2000 (as amended) the applicant was afforded the opportunity to make a written submission to the appeal. A submission on behalf of the planning applicant was received by An Bord Pleanála on the 13th December 2023 and the submission is summarised as follows from Hughes Planning & Development Consultants;

- A review of the relevant planning history of the subject property.
- A summary of the proposed development design and layout.
- An overview of the relevant planning policy for the area and review of the third-party appellant's concerns about the proposed development.
- References that the existing dwelling is c.502 square meters in size and that the proposed extension increases the area to c. 777 square meters as a critique to the suggestion by the appellant that the building area will double in size.
- Contains an extensive photomontage array from ARCH FX for the subject property and the proposed extension.

7(c). Observation Submitted by Paul & Aoife Hill

An Bord Pleanála received an observation from Paul & Aoife Hill of The End, Carrickbrack Road, Howth, Co. Dublin on the 13th December 2023. The observation can be summarised as follows;

- Observers give their full support to the proposed development and seeks An Bord Pleanála to uphold the decision to grant planning permission.

- Outlines that in their opinion that the proposed development accords with the policies and objectives of the Fingal County Development Plan (2023-2029) and the Howth Special Area Amenity Order, 1999.
- The proposed extension is appropriately sited and designed.
- That the issues raised by the appellants are unreasonably nimbyist and of an anti-development nature.
- The proposed development represents an appropriate form of development which will not give rise to any negative impacts on the amenity of any adjacent properties or on the views from the Cliff Path.
- The proposed development has been designed to an incredibly high standard.

7(d). Third Party Submission of Ciara Ni Laoi on Behalf of Hillwatch

The third-party appellant submitted an S.131 response to the submission and observation lodged the appeal on the 24th January 2024 and this can be summarised as follows;

- Reiterates that they are alarmed that a request for a visual impact assessment would be considered onerous and that granting permission in the absence of such as assessment would establish an unacceptable precedent contrary to the principles of the Howth Special Amenity Area Order.
- Contends that the photomontages submitted by the applicant in their submission to An Bord Pleanala do not include proposed landscape alterations.
- Reiterates that the proposed site is adjacent to the Cliff Path and that this is one of Dublin's most outstanding areas of natural beauty and a much loved popular amenity attraction.
- References precedents for refusing permission such as F22A/0329.
- Contends that the applicant has not satisfied the requirements of Enforcement Order ENF/18-09B and cites this as a track record of the applicant for not following planning protocols.

- States that there is no relevance to the issue of gross floor area measurements as alluded to by the applicant in their submission.

8. PA Response

The Planning Authority submitted a written submission which was received by An Bord Pleanála on the 05/12/2023 and this submission confirmed the following;

- The proposed development was assessed under the Fingal Development Plan (2023-2029), existing government policy and guidelines and the Howth Special Amenity Area Order.
- The impact of the proposed development in planning permission F23A/0519 on adjoining neighbours was also assessed and concerns set out in third-party objections were acknowledged and considered.
- The scale of the proposed development is considered sympathetic to the existing dwelling on the subject site and that no undue visual impact would arise.
- The planning authority remains of the opinion that the proposed development is acceptable and requests that An Bord Pleanála uphold the decision to grant permission.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

10. AA Screening Having regard to the modest nature and scale of development and the absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

2.0 Assessment

The main issues for consideration in this appeal can be considered under the following headings;

- Principle
- Impact on the Surrounding Environment
- Other Issues

2.1 Principle

Policy objective 14.10.2 of the Fingal Development Plan (2023 – 2029) makes provision for the type of development proposed in this permission for extensions to existing dwellings as the changing needs of occupants arise. The proposal for an extension at the subject property is therefore considered to be acceptable under this heading and in compliance with Policy SPQH41 of the Fingal Development Plan (2023-2029). The lack of a comprehensive visual impact assessment of the proposed development does however make it impossible to confirm if Objective SPQH045 has been complied with in the extension design.

2.2 Impact on Adjoining Amenity

The proposed extension has indeed been designed to a very high standard as alluded to in the observation submitted to An Bord Pleanála. The photomontage submitted by the planning applicant confirms that the proposed extension is certainly complementary to the existing dwelling as specifically required in the grant of planning permission F23A/0519. Nevertheless this montage does not constitute a Visual Impact Assessment as prescribed for in the Fingal Development Plan (2023-2029) and I do not agree with the Fingal County Council Chief Executive's Report that to request such a Visual Impact Assessment would be onerous. Moreover I would suggest that the potential negative impacts on a sensitive receptor such as at the subject site means that it is critical that such a visual assessment be carried out. This concern accords with the refusal by An Bord Pleanála of planning application F22A/0329 and I concur with the third-party appellant that the proposed building line

of the extension and the associated lowering of garden levels does protrude much further to the south than the current dwelling.

2.3 Other Issues

The proposed site area for planning application F23A/0519 is outlined in red and subdivides the overall area in the ownership of the applicant which is outlined in blue on Drawing No. 2015-104-P5-100. The appellant has in my opinion correctly identified in their appeal that this subdivision seeks to separate the proposed extension of the existing dwelling from the area which contains the authorised structure that is the subject of the Planning Enforcement ENF/18-09B and this is prejudicial to the proper planning and sustainable development of an area contained within the Howth Special Amenity Area Order.

3 Recommendation

Having regard to the foregoing I recommend that planning permission be refused for the reasons and considerations set out below.

4 Reasons & Considerations

1. In the absence of a comprehensive visual impact assessment for the proposed extension and the associated potential topographical impacts of the reduction of site levels associated with the proposed works it is not possible to establish that the proposed extension will not negatively impact on the surrounding environment as protected by the Howth Special Amenity Area Order. The granting of permission could therefore potentially contravene Objective SPQH045 of the Fingal Development Plan (2023-2029).
2. The failure to comply with the directions of Planning Enforcement ENF/18-09B is of significance as this relates to unauthorised development on lands in the ownership of the planning applicant which is adjacent to the proposed extension.

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.

Terry O' Leary

Planning Inspector

05/09/2024