



An  
Bord  
Pleanála

## Inspector's Report ABP318761-23

<b>Development</b>	Retain existing structure in back garden and construct new link corridor to existing house.
<b>Location</b>	8 Lohunda Drive, Clonsilla, Dublin 15.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FW23A/318
<b>Applicant(s)</b>	Muhammad Nizam Uddin
<b>Type of Application</b>	Retention and Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Muhammad Nizam Uddin
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	16 <sup>th</sup> February 2024.
<b>Inspector</b>	Hugh Mannion

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## 1.0 Site Location and Description

- 1.1. The application site comprises one of a pair of semi-detached houses at 8 Lohunda Drive, Clonsilla, Dublin 15. The existing house is two storeys with a front and rear garden. A flat roofed structure has been constructed in the rear garden and the submitted drawings show that this building contains a living/kitchen area, bathroom and bedroom. The rear garden is accessed either through the house or over a side passage from the street/front garden. The proposal is to retain this structure and link it with a new corridor to the main house on site.

## 2.0 Proposed Development

Retain an existing structure comprising residential accommodation and construct a new link corridor to the main house on site at 8 Lohunda Drive, Clonsilla, Dublin 15.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission.

The proposed development would by reason of design and layout adversely impact the visual amenity of the area and adjoining property, would depreciate the value of property in the vicinity and would be contrary to objectives SPQHP41 and SPQH045 on the Fingal County Development Plan 2023-2029.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning officers report recommended refusal as set out in the Chief Executive's order.

#### 3.2.2. Other Technical Reports

**Irish Water** reported no objections.

**Water Services Division** reported no objections.

## 4.0 Planning History

None

## 5.0 Policy and Context

### 5.1. Development Plan

The site is in an area zoned RS – Residential with the objective to “provide for residential development and protect and improve residential amenity” in the Fingal County Development Plan 2023- 2029.

**14.10.3 Family Flats** 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.

**Objective SPQHO41 – Residential extensions** Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.

**Objective SPQHO41 – Family Flats** Support the provision of family flats on suitable sites within established residential areas subject to specific design criteria.

**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.

## 5.2. **Natural Heritage Designations**

Not relevant.

## 5.3. **EIA Screening**

5.4. 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**

- The structure in the rear garden was constructed as accommodation for the applicant's mother-in-law. When the applicant received a warning letter from the planning authority, he applied for permission to retain the structure and permission to construct a link corridor to the main house on site.
- The site is zoned for residential development the development plan makes provision for family flats in appropriate circumstances.
- The structure meets the criteria set out in the plan in that it is less than 75m<sup>2</sup>, can be incorporated into the main house and is for a family member.
- The proposal will not negatively impact on the visual amenity of the area as when the new link corridor is constructed it will be about 19m from the public footpath and appear only as a rear extension subservient in terms of mass and scale to the existing two storey house.
- The proposed development will not negatively impact on the amenity of adjoining properties (numbers 6 Lohunda Drive to the south and 10 Lohunda

Drive to the north). The highest point of the finished building is 3.1m which could not be viewed as overbearing from the adjoining rear gardens.

- There is no evidence that the proposal will devalue property in the area and since no neighbour made any submission on this point it is a reasonable assumption that they don't agree with this contention.
- There are precedents for domestic extensions in the area.

## **6.2. Planning Authority Response**

- The points raised in the appeal were covered in the planner's report on file.
- The proposed development would have a negative impact on the visual and residential amenity of the area.

## **6.3. Observations**

- None

## **6.4. Further Responses**

- None

## **7.0 Assessment**

7.1. The main planning points to be considered are – compliance with the County Development Plan provisions, impact on visual amenity in the area, impact on adjoining property.

### **7.2. Development Plan/Family flats.**

7.3. The application site is zoned for residential development in the Fingal County Development Plan. The existing structure was built without benefit of planning permission and when this was raised by the planning authority with the applicant an application for retention permission was made to retain the flat and for permission to link it to the main house with a linking corridor. The County Development Plan recognises that family flats can be an acceptable extension to the available residential accommodation on a domestic scale site where the use is for a member

of the immediate family (e.g. elderly parent). The flat may be provided through the subdivision of a single dwelling, provision of an extension or conversion of a garage attached to the main dwelling.

- 7.4. In the present cases the applicant's mother-in-law occupies the flat.
- 7.5. The development plan requires that the flat remain subsidiary in scale to the main house, be less than 75m<sup>2</sup> in floor area and be capable of being subsumed into the main house. The final structure (existing flat and new link) will be about 43m<sup>2</sup>, will remain subsidiary to the existing house and is capable of being reincorporated into the existing house at a point in the future.
- 7.6. I note in this context that neither Irish Water nor the local authority's drainage division had any objections to the proposed development.
- 7.7. Having regard to the factors set out above I conclude that the proposed development complies with the zoning objective for the site and the objectives relating to the provision of family flats set out in the County Development Plan.
- 7.8. **Visual Impact**
- 7.9. The planning authority determined that the proposal would negatively impact on the visual amenity of the area. The present structure is barely visible from the public realm, and I conclude does not negatively impact on visual amenity.
- 7.10. The new link corridor will bring the structure about 2m closer to the inner/closest edge of the public footpath but will remain about 17m from the footpath. The height of the link corridor will be a maximum of 3.1m. I conclude that this is a very modest scale domestic extension which will not seriously injure the visual amenity of the area.
- 7.11. **Impact on adjoining property.**
- 7.12. The appeal makes the point that there were no observations submitted by adjoining property owners in relation to the proposal.
- 7.13. The rear garden is defined by 2m high block walls. The family flat is 3.1m at its height. The adjoining site closest to the structure is number 6 but this is due south of the application site with no capacity to suffer overshadowing. Furthermore the flat will not impact on the garden of number 10 to the north.

7.14. Having regard to these factors I conclude that the proposed development will not adversely impact on the amenity of neighbouring property.

#### 7.15. **Appropriate Assessment Screening**

7.16. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built-up urban area 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. Having regard to the foregoing I recommend a grant of permission.

### 9.0 **Reasons and Considerations**

The application site is zoned with the objective “provide for residential development and protect and improve residential amenity” in the Fingal County Development Plan 2023- 2029. The Development Plan recognises that family flats can be an appropriate form of development on existing residential sites. Having regard to the modest scale of the proposed flat and the provision of a link to the main house it is considered that the flat will remain subservient to the existing house on site and may be re-incorporated into that house, and subject to the conditions set out below, it is considered that the proposed development would not seriously injure the visual amenity of the area or the residential amenity of property in the vicinity, and that it would accord with the provisions of the County Development Plan and 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 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
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	<p>shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Eireann.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>The proposed family flat extension shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p><b>Reason:</b> In order to comply with the objectives of the current Development Plan for the area.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>

	<p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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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Hugh Mannion  
Senior Planning Inspector

19<sup>th</sup> February 2023