



An  
Bord  
Pleanála

## Inspector's Report ABP-319494-24

<b>Development</b>	Change of use of existing ground floor garage to a one bed flat, construction of a kitchen to the rear of existing dwelling and the construction of a new dwelling, together with all associated site works.
<b>Location</b>	2 River Valley Road, Swords, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F24A/0036E
<b>Applicants</b>	John & Marcella McGeough
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	John & Marcella McGeough
<b>Observers</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> October 2024
<b>Inspector</b>	Jim Egan

## **1.0 Site Location and Description**

- 1.1.** The subject site, with a stated area of 0.05 ha, comprises No. 2 River Valley Road, within an established residential area on the southwestern edge of Swords, north County Dublin.
- 1.2.** The area is of a conventional 1970s suburban layout, with general uniformity from street to street in terms of building lines, elevational design, material finishes and boundary treatments. This uniformity, together with mature street trees and front garden landscaping evident in most properties, defines the area's character.
- 1.3.** The site, located on a corner, contains a two-storey semi-detached dwelling fronting River Valley Road to the south and sides onto River Valley Way to the east, with in-curtilage car parking to the front and a garden on the east side and rear. The site slopes gently towards the east and is regular in shape, albeit noting that the application drawings show that the site narrows by c. 0.9m between the front and rear boundaries.
- 1.4.** Boundary treatments to the site include, to the front boundary, a red brick wall c. 1m high, and to the east side boundary to River Valley Way, a c. 2m high concrete block wall, unrendered and uncapped. Landscaping comprises lawns and planting to both sides of the car parking area at the front of the dwelling.
- 1.5.** The dwelling includes a front porch extension with a pitched roof that extends above the front elevation of an integral garage, and a flat roof rear extension. Material finishes include, on the front elevation, red brick at ground level and painted render at first floor, and on the east side and rear elevations, a wet dash render, the latter being the predominant external wall finish evident in the vicinity.
- 1.6.** During a site inspection, I observed that the dwelling on the appeal site is noticeably wider across the front, comprising a three-bay formation, compared to a two-bay for other dwellings in the vicinity, including the dwelling to which it is attached. In this regard, I note that the First Party Appeal written report refers to a previous first floor extension above a side garage.

## 2.0 Proposed Development

### 2.1. Planning permission is sought for the following:

- Construction of a single storey flat roof rear extension (c. 20sq.m) to the existing dwelling, with a depth that would align with an existing single-storey rear extension.
- Convert an existing ground floor integral garage / former childcare facility to a one-bed family flat (c. 50sq.m). The family flat would be accessed from within the front porch of the main dwelling and would include a patio for private amenity space located to the front of the building, accessible from the kitchen/dining/living area.
- Construction of a new two-bedroom, two-storey, detached dwelling (c. 90sq.m) in the side garden of the site; and alterations of the existing front boundary to create a separate vehicular entrance.

2.1.1. The development is a revised proposal from what was refused previously under P.A. Ref. F23A/0470.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission refused for the following reasons:

1. *The proposed development of a one bed family flat, if permitted, would be contrary to Policy SPQHP41, Objective SPQHO45, Policy SPQHP42 and Objective SPQHO46 of the Fingal Development Plan 2023-2029, due to inappropriate design for residential extensions, which would be seriously injurious to the residential and visual amenity of the area through the provision of a poorly visually integrated patio to the front of the family flat, which would be visually incongruous and would conflict with the car parking surface. This would be seriously injurious to the future residential amenity of the family flat and would be contrary to the proper planning and sustainable development of the area.*

2. *The proposed infill dwelling by reason of the form, design, and layout would be visually incongruous at this prominent location and therefore would materially contravene Objectives DMSO31 and DMSO32 of the Fingal Development Plan 2023-2029, which seek to ensure that infill development integrates appropriately within the establishing setting, character and form of development in the surrounding area. Furthermore, the proposed dwelling does not meet the minimum standard for internal spaces as per Objective DMSO19 and the separation distance between side walls of units as per Objective DMSO26 of the Fingal Development Plan 2023-2029 and would overall be seriously injurious to the future residential amenity of the dwelling. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *Having regard to the lack of adequate information submitted with respect to the proposed layout, transportation, landscaping, as well as surface water drainage and Pre-Connection Enquiry (PCE), the proposed development has failed to demonstrate compliance with the provisions of the Fingal Development Plan 2023-2029 and the objective and vision of the zoning pertaining to the subject site. The proposed development 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 report contains an assessment of the proposed development. Points of note include:

- The proposed development, comprising a dwelling extension, family flat and new dwelling, is acceptable in principle on land zoned 'RS' – Residential;
- No anticipated loss of visual or residential amenity to the surrounding area as a result of the proposed rear extension to the existing dwelling;
- By reason of the nature and location of a patio area to the front of the family flat, and limited details of same, the proposal would be injurious to the visual and residential amenity of the area, injurious to the residential amenity of the

future occupiers of the family flat, and safety issues in terms of reversing cars within the site;

- The proposed side garden dwelling, by reason of its single bay form, depth and separation distance to the existing dwelling, would present as a dominant and intrusive form of development on a prominent corner site; unsympathetic and unbalanced failing to respect the established character and form of development within the vicinity; and would constitute over-development of the site. Refers to 2023 refusal for a similar proposal on the site.

By reason of the proposed boundary treatment within the front yard of the site to facilitate the proposed access and parking arrangement, the side garden dwelling would give rise to undue visual impact and would be inconsistent with the pattern of development and boundary delineation on River Valley Road. Also, concerns raised with respect to the provision of a second entrance from a pedestrian safety perspective. A future application should consider a shared / communal entrance;

- Insufficient information submitted with regards to foul and surface water disposal;
- Removal of a street tree to facilitate proposed relocation of the entrance to serve the existing dwelling is not supported.

### 3.2.2. Other Technical Reports

- *Transport Planning Section* – Provision of 1no. car parking space to serve the new dwelling is in accordance with the Fingal Development Plan. Bicycle parking can be facilitated in the rear garden via proposed side access. Sightlines from both entrances can be achieved subject to a condition on wall and pier heights.
- *Parks and Green Infrastructure Division* – Relocation of the entrance to serve the existing dwelling would require removal of a street tree. Recommended that the applicant be required to pay a financial contribution to cover the cost of replacing the tree within the general environs of the site.
- *Water Services Department* – Requested further information on surface water management. Noted the location of an existing 300mm surface water sewer

running parallel to the eastern boundary of the site, and in the context of the positioning of the new dwelling, noted that a minimum 3m separation may need to be observed.

### 3.3. Prescribed Bodies

*Uisce Éireann* – Requested that the applicant submits a Pre-Connection Enquiry (PCE) to Uisce Éireann in order to determine the feasibility of connection to the public wastewater infrastructure.

*Dublin Airport Authority* – No comment to make on the application.

### 3.4. Third Party Observations

None

## 4.0 Planning History

### 4.1. Appeal Site

- **P.A. Ref. F23A/0470** – refers to a 2023 refusal for a development broadly similar to that which is subject to the appeal.

#### Reasons for Refusal:

1. *The proposed development of a one bed family flat, if permitted, would be contrary to Fingal Development Plan 2023-2029 Policy SPQHP42 – Family Flats and Objective SPQHO46 – Family Flats, by way of no proposals for an entrance via the main dwelling, that the need has not been demonstrated and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed infill dwelling by reason of the form, design, and layout would be visually incongruous at this prominent location and therefore would materially contravene Objectives DMSO31 and DMSO32 of the Fingal Development Plan 2023-2029, which seek to ensure that infill development integrates appropriately within the establishing setting, character and form of development in the surrounding area. Furthermore the proposed dwelling*

*does not meet the minimum standard for internal spaces as per Objective DMSO19 and the minimum requirements for private open space as per Objective DMSO27 of the Fingal Development Plan 2023-2029 and would overall would be injurious to the future residential amenity of the dwelling. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.*

#### **4.2. Surrounding Area**

- **P.A. Ref. F04A/1814** – refers to a 2005 grant of permission for a detached two-storey dwelling to the side of No. 1 River Valley Close, a property which backs onto the appeal site.
- **P.A. Ref. F07A/0777** – refers to a 2007 grant of permission for a detached two-storey dwelling to the side of No. 2 River Valley Close.
- **P.A. Ref. F04A/1260** – refers to a 2005 grant of permission for a detached two-storey dwelling to the side of No. 1 River Valley Court.
- **P.A. Ref. F17A/0571** – refers to a 2018 grant of permission for a detached two-storey dwelling to the side of No. 2 River Valley Court.

### **5.0 Policy Context**

#### **5.1. Project Ireland 2040 - National Planning Framework**

*National Strategic Outcome 1 – Compact Growth*

*National Policy Objective 3c - At least 30% of new dwellings within built-up footprint of settlements*

*National Policy Objective 35 - encourages infill development*

#### **5.2. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031**

- Swords is identified as a Key Town
- Compact growth is a key priority for Swords

### 5.3. Ministerial Guidance

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

### 5.4. Development Plan

#### Fingal Development Plan 2023-2029

The following policies and objectives are relevant to the proposal:

- The site is zoned 'RS' – Residential, the objective of which is '*to provide for residential development and protect and improve residential amenity*'.
- Section 3.5.13.1 – Residential Extensions.
- Policy SPQHP41 and Objective SPQHO45 – Residential Extensions
- Section 14.10.2.3 (Development Management Standards) - Ground floor rear extensions.
- Section 3.5.13.2, Policy SPQHP42 and Objective SPQHO46 – Family Flats
- Section 14.10.3 (Development Management Standards) – assessment criteria for family flats
- Policy CSP12 – Promote compact growth in line with the NPF and RSES
- Policy CSP27 –30% of housing in the Key Town of Swords
- Policy CSP30 – Support the continued development of Swords
- Objective SPQHO39 – New infill development
- Objective SPQHO40 – Development of Corner or Wide Garden Sites
- Objective SPQHO42 – Development of Underutilised Infill, Corner and Backland Sites
- Section 14.10.1 – Corner/Infill Development



- Objective DMSO19 – New residential development to comply with relevant Department guidelines.
- Objective DMSO23 – Separation Distance
- Objective DMSO26 – Separation Distance between Side Walls of Units
- Objective DMSO28 – Minimum Private Open Space Provision for Townhouses
- Objective DMSO31 – Infill Development
- Objective DMSO32 – Infill Development on Corner / Side Garden Sites

## **5.5. Natural Heritage Designations**

The site is not located within or adjacent to any European or Designated Sites. The closest European and Designated Sites are the Malahide Estuary SAC (Site Code: 000205), Malahide Estuary SPA (Site Code: 004025) and Malahide Estuary pNHA (Site Code: 000205), all located c. 2.5km due northeast of the site.

## **5.6. EIA Screening**

Refer to Form 1 in Appendix 1. Class 12(c) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings.

Refer to Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## **6.0 The Appeal**

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

A First Party appeal has been submitted on behalf of the applicant against the Planning Authority's decision to refuse permission.

The appeal includes the following revised plans for consideration of the Board, in response to the Planning Authority's reasons for refusal:

- Proposed Site Block and Roof Plan – Dwg. No. P.05
- Proposed Ground and First Floor Plans – Dwg. No. P.06
- Proposed Front, Rear and West Side Elevation, and Section – Dwg. No. P07
- Proposed Contiguous Front Elevation and East Side Elevation – Dwg. No. P08

The revised plans include the following amendments:

#### Family Flat

- Removal of enclosed patio at the front of the flat;
- Removal of external door and window on the front elevation at ground floor level and replacement with 1no. window;
- Inclusion of an external door on the east side elevation at ground floor level.

#### Infill / Corner Dwelling

- Replacement of 1no. window on the front elevation at first floor level with 2no. windows;
- Change to material finish on front elevation at ground floor level from render to red brick. The written report submitted with the appeal refers to the remainder of the elevations to comprise wet dash render rather than 'render to match existing' as indicated on the application drawings and amended drawings submitted with the appeal;
- Removal of the proposed new vehicular entrance and internal boundary division, and instead retain the entrance as it exists (c. 4.2m wide) and to reduce the height of the piers and a section of the boundary wall to 900mm, to achieve necessary sightlines, and, by association, creation of a shared entrance and parking area.

The written report submitted with the First Party Appeal also includes rendered images / photomontages to portray how the proposed dwelling would sit within the site and area.

The written report submitted with the First Party Appeal addresses the local authority decision and can be summarised as follows:

Reason for Refusal No. 1 (Family Flat)

- Proposed rear extension to existing dwelling constitutes a separate component to the family flat. Planning Authority's decision could have reflected same with a split decision;
- Amendments to the front elevation of the family flat, as submitted with the appeal for the Board's consideration, comprising the removal of the patio, seek to address the reason for refusal in terms of visual integration with the street;
- Amendments submitted with the appeal include removal of the front door and replacement of same with a side access, seeking to address the Planning Authority's concern with respect to own-door access;
- The future use of the family flat, while uncertain at this stage, will be part of the existing dwelling.

Referring to the last two bullet points above, I note that the appeal seeks to respond to issues around own-door access and the future use of the family flat, quoting directly from the Planner's Report prepared for the previous refusal of permission on the site. These specific issues, while broadly interrelated, were not raised in the Planner's Report for the current application, the decision on which is subject to this appeal. The commentary is however noted and considered relevant for assessment purposes.

Reason for Refusal No. 2 (Side Garden Dwelling)

- Submits that the new dwelling has been designed to be consistent with the existing character, form and scale of development in the vicinity. Refers to photomontages submitted with the appeal.
- The new dwelling maintains the same ridge height, front building line and material finishes as those of the existing dwelling on the site;
- Two-storey rear element, while differs from established character of the area, would be 22m from opposing first floor level windows; would not have an overbearing or overlooking impact, or result in a loss of sunlight, on the existing dwelling on the site or on other adjoining properties;

- Submits that the Planning Authority has misinterpreted the floor plans by assessing the dwelling against a two-storey, two-bedroom, 4 person dwelling rather than a 3 person dwelling, and contends that the dwelling exceeds all minimum internal standards as set out in the *Quality Housing for Sustainable Communities – Best Practice Guidelines 2007*,
- A reduced separation distance between dwellings, in this case 1.25m, can be considered under Objective DMSO26. Similar separation distances evident in other similar infill developments in the vicinity. A requirement to increase the separation distance would affect the viability of the proposal in terms of achieving minimum room sizes;
- Sufficient private open space is provided;
- Windows on eastern side elevation allow for passive surveillance to River Valley Way;
- The proposed amendment to site entrance, as put forward for the consideration of the Board, will avoid any impact on street trees;
- Proposed shared entrance, as put forward for the consideration of the Board, will provide safe access and egress, a proposal deemed to be satisfactory by Fingal County Council's Traffic Engineer;
- New dwelling is to accommodate a family member, therefore a shared side accessway and shared front entrance and driveway can function amicably.

Reason for Refusal No. 3 (Layout, Street Trees, Access, Drainage)

- Amendments to the layout submitted for the consideration of the Board, including removal of the patio, removal a separate entrance and removal of boundary division within the front building setback, are measures which address the reason for refusal with respect to layout and transportation;
- Submits that either a minor relocation of the proposed new entrance to the existing dwelling or payment of a contribution to the Council for provision of a new street tree, are both agreeable measures (This statement is made notwithstanding the amended layout submitted for consideration of the Board

which shows the use of the existing entrance rather than new separate entrances);

- Surface water main can be diverted subject to agreement with Fingal County Council and at developer's expense;
- Confirmation of Feasibility letter from Uisce Eireann, dated 27/07/2023, submitted with the appeal. The letter refers to a connection for a single dwelling to water and foul mains at the appeal site address.

## **6.2. Planning Authority Response**

A submission received on 15th May 2024 states that the Planning Authority has no further comment to make on the proposal.

In the event that the appeal is successful, the Planning Authority requests that conditions requiring financial contributions and/or Bonds in accordance with the Section 48 Development are included.

## **6.3. Observations**

None.

## **6.4. Further Responses**

None.

## **7.0 Assessment**

The First Party Appeal received seeks to address the Planning Authority's reasons for refusal. As part of the grounds of appeal, the appellant submitted revised plans for the consideration of the Board. The revised plans submitted introduce no new elements or issues which may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the plans and information received by Fingal County Council on 22<sup>nd</sup> January 2024, and the further plans and particulars received by the An Bord Pleanála on 11<sup>th</sup> April 2024.

Having examined the application details, first party appeal and all other documentation on file, inspected the site and having regard to relevant local policies and objectives, I consider that the main issues in this appeal relate directly to the reasons for refusal, which are:

- Scale and Design
- Other Matters

The issue of appropriate assessment screening also needs to be addressed.

### **7.1. Scale and Design (Family Flat) – Reason for Refusal No. 1**

- 7.1.1. The Planning Authority's reason for refusal related to the proposed patio, which, by reason of its location to the front of the flat and limited details of same, would be injurious to the visual and residential amenity of the area, injurious to the residential amenity of the future occupiers of the family flat, and safety issues in terms of reversing cars within the site.
- 7.1.2. Objective SPQHO46 of the Fingal Development Plan seeks to ensure that family flats meet certain criteria, including that they comply with the design criteria for residential extensions, whilst Objective SPQHO45 relates to residential extensions, and supports extensions of appropriate scale and which do not negatively impact on adjoining properties or area.
- 7.1.3. The applicant has submitted revised plans for the consideration of the Board, which form the basis of my assessment. The revisions show the omission of the patio and, by association, replacement of the front door serving same and adjoining window with 1no. single window on the front elevation. The window would be sized to generally match the existing window to which it would adjoin on the front elevation.
- 7.1.4. I consider that the revised plans have overcome the reason for refusal in this regard. The amended front elevation, particularly by reason for omission of the patio, is in keeping with the character of the existing dwelling, adhering to Objective SPQHO46 (Family Flats) and Objective SPQHO45 (Domestic Extensions).
- 7.1.5. The amended plans also show the introduction of an external door on the eastern elevation, which would provide direct access to the flat, in place of the originally proposed patio doors on the front elevation. Direct access to the flat via the front patio

doors was not referred to as an issue in the Planner's Report, rather the First Party Appeal refers to this amendment in the context of the previous refusal on the site.

7.1.6. Section 14.10.3 of the Fingal Development Plan sets out assessment criteria for family flats, including that the entrance must be via the main dwelling and that where own-door access is unavoidable, own-door access shall be located to the side or rear. The remaining criteria is as follows:

- *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.*
- *No sub-division of the garden is permitted.*

In this case, the family flat comprises the conversion of a garage / former childcare facility to habitable accommodation for use as a family flat. In the application, as lodged with Fingal County Council, the flat would be accessible via the front porch of the existing dwelling and a front door onto an external patio. Under the amended plans submitted as part of the appeal, access to the flat through the existing dwelling would be maintained with additional direct access from the side elevation.

7.1.7. The part of the dwelling to be converted to a family flat is within the footprint of the dwelling, therefore, in my opinion, when the family flat use is no longer required, the accommodation can easily be subsumed into the main property, notwithstanding the limited internal connection shown between the flat and the dwelling under this planning application.

7.1.8. In respect of private amenity space, while I consider it best practice in terms of residential amenity to provide a direct connection between living areas and private amenity space, the criteria set out under Section 14.10.3 (Family Flats) of the Fingal Development Plan does not refer to such a requirement, rather prohibits the

subdivision of the garden. In this case, access to the rear garden would be provided directly from the bedroom, and also indirectly via the side access proposed on the amended plans, and also through the main dwelling.

- 7.1.9. On the basis of the foregoing, I am satisfied that the family flat, with amendments submitted with the appeal meets the assessment criteria under Section 14.10.3, therefore consistent with Policy SPQHP42 and Objective SPQHO46 (Family Flats) of the Fingal Development Plan.
- 7.1.10. I have concern however with the ground floor living room and bedroom windows on the eastern side elevation of the proposed family flat, which would interface directly onto a 1.25m wide side accessway to be shared between the main dwelling, family flat and the proposed new infill dwelling. These windows already exist however if the Board is minded to grant permission for the family flat and side garden dwelling, then further consideration should be given to these windows in terms of their amenity value to the occupants of the family flat.

## **7.2. Scale and Design (Infill / Corner Dwelling) – Reason for Refusal No. 2**

- 7.2.1. The appeal seeks to overcome the Planning Authority's reason for refusal and submits that the infill dwelling is designed having regard to the existing character, form and scale of development in the vicinity, consistent with Objectives DMSO31 and DMSO32 of the Fingal Development Plan.
- 7.2.2. Section 14.10.1 of the Fingal Development Plan recognises that housing on underutilised infill and corner sites in established residential areas provides for the efficient use of valuable serviced land and promotes consolidation and compact growth. Objectives SPQHO40 and SPQHO42 encourage the development of corner or wide garden sites within the curtilage of existing dwellings in established residential areas subject to the achievement of prescribed standards and safeguards, whilst Objectives DMSO31 and DMSO32 set out the assessment criteria for same.
- 7.2.3. The Planning Officer concludes that the dwelling would be an unsympathetic and unbalanced form of development and would constitute over-development of the site, referring to the form of the dwelling in terms of its narrow profile and, by association, its depth extending beyond the rear building line of the existing dwelling, and also that it fails to meet minimum internal and external standards, including the separation



distance of 1.25m provided between the opposing side gables of the existing and new dwellings, being less than the 2.3m sought by Objective DMSO26.

- 7.2.4. From reviewing the plans submitted with the application, I am satisfied that the proposed dwelling would meet the minimum standards in respect of internal room sizes, private amenity space, and provision of car parking. I am also satisfied that by reason of setbacks from adjoining properties, including opposing first floor windows, that the proposal would not cause a loss of amenity to adjoining dwellings, including the existing dwelling on the appeal site.
- 7.2.5. I consider that the pertinent issue is whether or not the site can accommodate the dwelling in terms of its impact on visual amenity of the area and residential amenity of adjoining dwellings, including the existing dwelling and proposed family flat on the site, and also the future occupants of the new dwelling.
- 7.2.6. I consider that a singular bay profile would add a degree of variety to the street and, for the reason alone, would not be detrimental to the visual amenity of the area. However, I consider that by reason of the dwelling built close to the gable of the existing dwelling, built partially against the eastern side boundary wall and the two-storey form extending c. 3.6m beyond the rear building line of the existing dwelling, results in a proposal which would be out of character with the area including the character established by previous side garden developments and visually intrusive on a prominent corner site.
- 7.2.7. By reason of the proposed dwelling being built partially against the east side boundary wall, the c. 1.25m accessway created between the opposing gables of the existing and new dwellings would be shared between the occupants of the existing dwelling, new family flat and new infill dwelling.
- 7.2.8. Objective DMSO26 seeks to ensure a separation distance of at least 2.3 metres is provided between the side walls of adjoining dwellings, and that this separation distance may be reduced on a case-by-case basis subject to the overall quality of the design and the schemes contribution to the streetscape, and that a statement demonstrating design mitigation and maintenance arrangements shall be submitted in such cases. I further note that Section 14.8.2 states that this standard is required in order to allow for adequate maintenance and access.

- 7.2.9. The appellant seeks a dispensation on this standard stating that the new dwelling is for a family member and as such the shared arrangement would be amicable. I do not consider this to be a reasonable basis for dispensation. The proposal should, in my opinion, be assessed on its merits and against the relevant objective of the development plan, noting that infill housing does not normally include conditions relating to occupancy unlike family flats.
- 7.2.10. The requirement for a 3.2m wide separation distance is, in my view, implied to allow the creation of separate accessways for adjoining dwellings. In this case, a single accessway would be shared by the existing dwelling, family flat and the new dwelling. Furthermore, and as discussed above, a living room and bedroom window of the proposed family flat would interface directly onto the shared accessway, causing a loss of privacy and outlook for the occupants of the family flat.
- 7.2.11. The appellant refers to precedent in the area for similar type side garden dwellings in the context of separation distances being less than the current standard. Having reviewed the permissions granted for side garden / corner dwellings at No. 1 and No. 2 River Valley Court and No. 1 and No. 2 River Valley Close (details contained in Section 4.2 of this report), which are the four corner properties running north from the appeal site, I observed that in all four cases, the side separation distance was below the current 2.3m standard, providing only enough width for side access to the existing dwelling, however in each case there was sufficient room on the opposite side of the new dwelling for its own side access, this constituting, in my opinion, a suitable design mitigation measure referred to under Objective DMSO26.
- 7.2.12. Furthermore, due to the change in angles of the eastern side gable wall of the proposed dwelling, sections of the gable will be inaccessible or difficult to reach behind the eastern boundary wall, including a ground floor hallway window. I consider this to be contrary to Objective DMSO32, which requires provision of side/gable access for maintenance, and is, in my opinion, indicative of overdevelopment of the site.
- 7.2.13. Given the car parking requirement for the existing and proposed dwelling together with the building line tight against the eastern side boundary, there is minimal opportunity for soft landscaping to the front or side public interfaces, which, in my opinion, is inconsistent with the character of the surrounding area, contrary to Objective DMSO32, and indicative of overdevelopment.

7.2.14. The revisions to the proposed dwelling submitted with the appeal for the consideration of the Board are aesthetic, comprising the replacement of a single window on the first-floor front elevation with 2no. windows and modification of the material finishes, to include brick on the ground floor front elevation. While the amendments have merit from a visual perspective, I consider that by reason of the scale of the dwelling within a restricted corner site, particularly in terms of separation distances to side boundaries, shared side access arrangement and depth of bulk on the eastern boundary, results in a proposal which would impact negatively on the visual amenities of the area and amenities of the occupants of the new dwelling and family flat, constituting an over-development of the site. On this basis, I recommend that permission is refused for the side garden dwelling.

### **7.3. Other Matters**

#### Single Storey Rear Extension

- 7.3.1. The proposed rear extension would have a depth and flat roof parapet height generally matching those dimensions of the existing single storey rear extension. The Planning Authority raised no concern with the rear extension.
- 7.3.2. I consider that by reason of design, in terms of depth, height and roof profile, the rear extension would not cause undue loss amenity to adjoining dwellings.
- 7.3.3. The appellant contends that the Planning Authority had opportunity to issue a split decision whereby the rear extension is granted permission independently of the family flat. The proposed rear extension to the dwelling comprises the closing up of an external door and window on rear of the existing single storey rear extension (rear of garage), therefore a grant of permission for the rear extension, in isolation of a grant of permission for the conversion of the garage/ former childcare facility to a family flat, would have implications on practical access / use of the garage. For that reason, I would consider that the application for a rear extension and family flat conversion are intrinsically linked.

#### Car Parking / Access

- 7.3.4. Reason for Refusal No. 3 refers to layout and transportation, which, from reviewing the file, I consider relates to access and carparking. The proposal includes alterations to the front boundary to create two separate entrances and a division of the front yard.

The Planning Authority raised concerns raised with respect to the provision of a second entrance from a pedestrian safety perspective and suggested that a future application should consider a shared / communal entrance.

- 7.3.5. The amended plans submitted with the appeal show the proposed patio, separate entrance arrangement and internal boundary division omitted and instead shows that the existing entrance (c. 4.2m wide) would be retained with piers and adjoining boundary wall reduce to 900mm high for sightlines, with a shared parking arrangement within the front yard.
- 7.3.6. I consider the revised proposal acceptable from a road safety and visual amenity perspective and should be provided as per amended plans submitted with the appeal, notwithstanding my recommendation to refuse permission for the side garden dwelling.

#### Landscaping / Street Trees

- 7.3.7. Reason for Refusal No. 3 refers to landscaping, which, from reviewing the file, I consider relates to an existing street tree located within the grass verge west of the site entrance, and impact on same of the proposal to alter the front boundary to create two separate entrances for the existing and proposed dwellings. As per my conclusion in respect the entrance arrangement, I consider that the amended proposal which sees the retention of the existing entrance as a shared access, presents a good planning outcome from a visual and road safety perspective, and also lends itself to safeguarding an existing street tree.

#### Foul and Surface Water Drainage

- 7.3.8. Reason for Refusal No. 3 also refers to foul and surface water drainage. The appellant submits that the surface water main can be diverted subject to agreement with Fingal County Council and has included, with the appeal, a letter from Uisce Eireann confirming feasibility of connection to foul mains. I consider that standard conditions could be included on a grant of permission in respect of both foul and surface water drainage.

#### Development Contributions

- 7.3.9. In the Planning Authority's response to the appeal, they have indicated that should the appeal be successful, provision should be made in the determination for applying a

financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

7.3.10. In respect of the proposed rear extension and family flat:

- Under Section 11(i)(a) of the Fingal County Council Development Contribution Scheme, 2021- 2025, the first 40 square metres of domestic extensions are exempt from the payment of a development contribution, and the scheme further noted that this exemption is cumulative and limited to 40 square metres in total per dwelling.

The proposed single storey rear extension has a stated gross floor area of c. 20sq.m. The first party appeal received refers to a previous first floor extension above the side garage, which, based on the submitted floor plans, would appear to have a floor area of c. 30sq.m. There is no evidence on the planning record of a grant of permission for that first-floor extension, this being a matter for the Planning Authority to pursue through the appropriate channels and therefore does not form part of my assessment with regards the calculation of development contributions. Based on the foregoing, I consider that a development contribution is not payable on the proposed rear extension by reason of its floor area being below 40sq.m.

- In respect of the proposed family flat, I note that under Section 11(i)(r) of the 2021- 2025 Scheme, internal layout alterations where no additional floor area is created, and external walls are not being removed, are exempt from the payment of a development contribution. I consider this exemption is applicable to the family flat, and therefore a development contribution is not payable.

7.3.11. Based on the foregoing, I am of the view that development contributions apply to the proposed side garden dwelling only, which I am recommending be refused permission.

## **8.0 AA Screening**

Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, 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.

## 9.0 Recommendation

I recommend a split decision.

I recommend that permission be granted for the single storey extension to the rear of the dwelling and for the change of use of the existing ground floor garage / former childcare facility to a one bedroom family flat, in accordance with the submitted plans and particulars, including amendments received with the First Part Appeal, and based on the reasons and considerations marked (1) under, and subject to the conditions set out below; and that permission be refused for the detached dwelling in the side garden of the site, based on the reasons and considerations marked (2) under.

## 10.0 Reasons and Considerations (1)

Having regard to the provisions of the Fingal Development Plan 2023-2029 and the nature, scale and design of the proposed single storey rear extension and the nature, scale and design of the proposed family flat, including the nature of the amended plans received as part of the First Party Appeal, it is considered that, subject to compliance with the conditions below, the development would not seriously injure the amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 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 received by An Bord Pleanála on the 11th day of April 2024, 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
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	<p>development and the development 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 family flat for a family member shall not be sold, let or otherwise conveyed as an independent living unit and shall revert to use as part of the main dwelling on the cessation of such use. The existing garden and curtilage of the overall residential property on this site shall not be subdivided.</p> <p><b>Reason:</b> In the interest of orderly development and residential amenity.</p>
3.	<p>The external finishes of the proposed extension and family flat shall harmonise with those of the existing dwelling in respect of colour and texture.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>The glazing to all bathroom windows shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
5.	<p>Prior to the occupation of the family flat, the alterations to the existing vehicular entrance, as shown on Drawing No. P.05 and P.08 submitted as part of the First Party Appeal to An Bord Pleanála on the 11th day of April 2024, shall be carried out and completed.</p> <p><b>Reason:</b> In the interest of clarity and road safety.</p>
6.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and to ensure a proper standard of development.</p>

## 11.0 Reasons and Considerations (2)

Having regard to the restricted nature and prominent location of this corner site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed side garden dwelling, by reason of its scale, mass and bulk, including separation from side boundaries, would constitute overdevelopment of a limited site area and would be visually obtrusive on the streetscape and out of character with development in the vicinity, contrary to Objectives SPQHO40 and SPQHO42 of the Fingal Development Plan 2023-2029. The proposed development would, therefore, seriously injure the amenities of the area and would 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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Jim Egan  
Planning Inspector

23<sup>rd</sup> October 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-391494-24			
<b>Proposed Development Summary</b>	Change of use of existing ground floor garage to a one bed flat, construction of a kitchen to the rear of existing dwelling and the construction of a new dwelling, together with all associated site works.			
<b>Development Address</b>	2 River Valley Road, Swords, Co. Dublin			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X	
		<b>No</b>		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>				No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 - Construction of more than 500 dwelling units		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	320173-24	
<b>Proposed Development Summary</b>	Change of use of existing ground floor garage to a one bed flat, construction of a kitchen to the rear of existing dwelling and the construction of a new dwelling, together with all associated site works.	
<b>Development Address</b>	2 River Valley Road, Swords, Co. Dublin	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal comprises a change of use of existing ground floor garage to a one bed flat, construction of a single storey extension to the rear of an existing dwelling and the construction of a new dwelling, together with all associated site works. However, the proposal is not considered exceptional in the context of the existing urban environment.</p> <p>The proposal would be connected to all public services and utilities.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>Site measuring 0.05 ha. The rear extension would be c. 20sq.m. family flat comprises use of existing floor space, and floor area of the new dwelling is c. 90sq.m. The proposal is not considered exceptional in the context of the existing urban environment.</p>	<p>No</p> <p>No</p>



## **Appendix 2**

### **AA Screening**

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or adjacent to any European Sites. The closest European Sites, part of the Natura 2000 Network, are the Malahide Estuary SAC (Site Code: 000205) and Malahide Estuary SPA (Site Code: 004025), located c. 2.5km due northeast of the site.

The proposed development is located in an urban area and comprises extension of an existing dwelling, conversion of part of the structure to a family flat and construction of a detached dwelling in the side garden. The development would be connected to all public services including water, sewer and surface water mains.

Having considered the nature, scale and location of the proposed development, and having regard to the AA Screening carried out by the Planning Authority, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Nature and scale of the proposed development;
- Urban location with access to all public services and utilities; and
- The distance from European Sites, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.