



An
Bord
Pleanála

Inspector's Report ABP-319872-24

Development	Renovation and extension of dwelling with all associated site works.
Location	Ballealy Lane, Lusk, Co. Dublin, K45 C593
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0269
Applicant(s)	Tom and Theresa Farrell
Type of Application	Planning Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Tom and Theresa Farrell
Observers	None
Date of Site Inspection	22 nd August 2024
Inspector	Jim Egan

1.0 Site Location and Description

- 1.1. The site is located on the northern side of Baleally Lane (L1180), in the rural townland of Balleally East, north County Dublin, approximately 2km due south of Lusk.
- 1.2. The appeal site, with a stated area of 0.117ha, is long and narrow with a frontage of c. 26m to the public road, extending c. 55m to the north, where it narrows to c. 10m. There is a single storey vacant / derelict cottage of c. 59sq.m on the site, setback c. 19m. from the public road, noting that the eastern elevation of the dwelling forms part of the eastern site boundary.
- 1.3. Existing site boundaries comprise a stone clad concrete block wall of approximately 1.2m high to the front / south, open boundary along the western side comprising mature trees; overgrown vegetation to the north; a concrete block wall of c. 2.5m high extending from the rear of the site to the rear elevation of the cottage; with the remainder of the eastern boundary between the front elevation of the cottage and roadside wall comprising a hedge and partial timber panel fence.
- 1.4. The site is bounded by an agricultural / horticultural related enterprise to the west, fields and polytunnels to the north, and a detached single-storey dwelling to the east. To the south of the site, on the opposite side of Baleally Lane, is the former Balleally Landfill, restored and repurposed as a public park (known as Rogerstown Park), interfaced on its south and east sides by the Rogerstown Estuary.

2.0 Proposed Development

- 2.1. Planning permission is sought to renovate and extend a single storey hipped-roof detached two-bedroom dwelling (c. 59sq.m) to provide a five-bedroom dwelling (total floor area of c. 370sq.m), to comprise the following works:
 - Renovate the ground floor of the dwelling, including demolition of a rear return, all internal walls and 2no. chimney breasts, and modification of all window openings, to create an open-plan kitchen / dining area;
 - Removal of hipped roof and construction of a dormer style first floor level extension by raising the eaves by c. 1.4m, construction of a new gable ended pitched roof with ridge height of c. 6.55m and installation of 3no. dormer windows on the front elevation;

- Demolition of a pitched roof front porch and construction of a new front gabled porch;
- Construction of a storey and a half style extension to the rear / northern side of the dwelling, to comprise a total floor area of c. 270sq.m, depth of c. 13.3m, width of 12.1m, and with a pitched roof ridge height of c. 7.76m.
- Installation of a new on-site tertiary wastewater treatment system and infiltration/treatment area and on-site soakaway.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused for the following reason:

1. *The proposal by reason of its mass, bulk, scale and overall design would appear excessive, unsympathetic, and visually incongruous with the character and design quality of the original cottage. Furthermore, the proposal would result in overbearing which would negatively impact the residential amenity of the dwelling to the east, 'Le Verna'. As such, the proposed development would be contrary to Policy SPQHP41 - Residential Extensions, Objective SPQHO45 - Domestic Extensions, Policy HCAP22- Retention and Reuse of Existing Building Stock, Objective DMSO190 - Structures Contributing to Distinctive Character and Table 14.26 of the Fingal Development Plan 2023 - 2029 would seriously injure the amenities of property in the vicinity and so would 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 principle of the proposed development is acceptable within the 'HA - High Amenity' zoning of the site.

- The existing dwelling, whilst not a Protected Structure nor located within an Architectural Conservation Area, is distinctive due to its cottage design and era of construction, thus contributes to the character of the area.
- The proposed extensions, by reason of design and scale, are unsympathetic to the character of the existing dwelling, and more akin to a new/replacement dwelling, impacting negatively on visual amenity, and would have a negative overbearing impact on the adjoining dwelling to the east.
- No supporting documentation to assess impact of the proposal on the structural integrity of the dwelling.

3.2.2. Other Technical Reports

- *Transport Planning Section* – Notes the existing established entrance and that the site is located on a road with a speed limit of 50km per hour. No objection subject to standard conditions relating to the entry splay, entrance sightlines, utilities, and stormwater disposal.
- *Environment Section* – No objection raised. Notes the location of the site within 250m of an historic landfill (Balleally Landfill).
- *Parks and Green Infrastructure Division* – No objection raised and recommends the inclusion of conditions relating to tree and tree root protection.
- *Water Services Department* – No objection subject to standard conditions in respect of wastewater treatment and surface water drainage.
- *Ecologist* – Potential significant effects to Natura 2000 sites are unlikely to occur as a result of the proposal, alone or in-combination with other plans or projects. Recommended that a landscape plan and ecological survey be requested by way of additional information, the latter in respect of roosting bats and nesting birds.

3.3. Prescribed Bodies

- *Uisce Éireann* – No objection subject to standard conditions in respect of a water connection agreement.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal Site

- **P.A. Ref. F98B/0193** – refers to a September 1998 permission for a 100sq.m single storey extension to the rear of the existing dwelling. Permission was not enacted.

4.2. Surrounding Area

- None considered relevant.

5.0 Policy Context

5.1. Development Plan

Fingal Development Plan 2023-2029

- The appeal site is zoned 'HA – High Amenity', the objective of which is '*to protect and enhance high amenity areas*'.
- In Fingal's Landscape Character Assessment, the site is located within an 'Estuary Type' landscape, classified as being 'Highly Sensitive'.
- Section 3.5.15.7 (Rural Fingal) requires that dwelling extensions in the rural area exhibit high quality design and demonstrate full consideration for the context of the site and its rural surroundings.
- Policy SPQHP41 and Objective SPQHO45 support dwelling extensions of appropriate scale and subject to the protection of residential and visual amenities.
- Section 3.5.15.13 encourages the re-use of historic vernacular dwellings by stipulating that applications for the sensitive restoration of disused vernacular houses will not be subject to local need policy for new dwellings subject to certain parameters being met including that the distinctive vernacular character

of the dwelling is retained, and where the building is derelict, it must be proven that it is structurally capable of supporting the proposed works.

- Policy SPQHP48 and Objective SPQHO52 encourage the re-use and rehabilitation of existing housing stock in rural areas in preference to new build and actively promote the protection of rural buildings.
- Policy GINP28 and Objective GINHO67 seek to protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.
- Policy HCAP22 and Objective DMSO190 seek the retention and rejuvenation of the historic and vernacular building stock by deterring the replacement of buildings with modern structures and by protecting these buildings where they contribute to the character of an area.
- Section 14.12.13 (development management standards) relates to extensions of rural dwellings and states that extensions of a reasonable or modest size may be acceptable, subject to the proposed extension respecting the character, scale, and proportions of the existing dwelling, and subject to the availability of necessary services and protection of the visual amenities of the area.

5.2. Natural Heritage Designations

The subject site is not within or immediately adjacent to any Natura 2000 or designated sites.

The Rogerstown Estuary SAC (Site Code: 000208), Rogerstown Estuary SPA (Site Code: 004015) and Rogerstown Estuary pNHA (Site Code: 000208) are located 215m to the north.

The Malahide Estuary SAC (Site Code: 000205), Malahide Estuary SPA (Site Code: 004025), and Malahide Estuary pNHA (Site Code: 000205) are located 3.6km to the north.

The site is located within the *Rogerstown Estuary Ecological Buffer Zone*, as identified under the Fingal Development Plan, designated to protect the ecological integrity of nationally and internationally designated sites.

5.3. EIA Screening

Refer to Form 1 Appendix 1. The proposed development comprises alterations and extensions of an existing dwelling. These works do not fall into a class of use under Schedule 5 of the Regulations and, therefore, I do not consider that EIA or Preliminary Examination for EIA is required in this instance.

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 grounds of appeal are summarised as follows:

- The structure has been vacant for a decade and the renovation / extension would bring it back to a sustainable use (upgrade to a A1 – A3 rated house).
- Proposal is to restore and extend a vacant and derelict cottage, not included on the Record of Protected Structures nor located within an Architectural Conservation Area.
- No third-party objection.
- Letter of support from resident of neighbouring dwelling ('Le Verna') submitted with the appeal. The letter outlines support for the restoration of the dwelling; refers to a level difference between the two properties; and contends that there would be no overlooking or overbearing impact.
- Submits mass, bulk, scale and overall design can be amended if required. Fingal County Council did not request Further Information.
- Reference to a 2016 grant of permission.
- Shortage of housing in the greater Dublin area.

6.2. Planning Authority Response

A submission received on 27th June 2024 refers the Board to Chief Executive's Order / Planning Officer's Report which details the planning assessment of the proposal.

6.3. Observations

None.

7.0 Assessment

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:

- Design & Scale
- Residential Amenity
- Other Matters

7.1. Design and Scale

- 7.1.1. Section 14.12.13, Policy SPQHP41 and Objective SPQHO45 of the Fingal Development Plan support dwelling extensions of appropriate scale; Policies SPQHP48 and Objective SPQHO52 encourage the re-use and re-habilitation of existing housing stock in rural areas; Policy HCAP22 and Objective DMSO190 seek the retention and rejuvenation of the historic and vernacular building stock rather than replacement; while Policy GINP28 and Objective GINHO67 seek to protect High Amenity areas from inappropriate development.
- 7.1.2. A first party appeal has been received which seeks to overcome the Planning Authority's reason for refusal. The appellant reiterates that the existing house is vacant and derelict and is not a protected structure nor located within an Architectural Conservation Area; and refers to a letter of support from the owner of the adjoining dwelling to the east.
- 7.1.3. The Planning Authority concluded that the proposal, by reason of its mass, bulk, scale and overall design would appear excessive, unsympathetic, and visually incongruous

with the character and design quality of the original cottage and would result in overbearing which would negatively impact the residential amenity of the dwelling to the east and this formed the basis of the reason for refusal.

- 7.1.4. At the time of inspection, I observed that the dwelling is vacant and in a poor condition, with windows and external doors missing / boarded up and with partial roof collapse. Notwithstanding its current condition, I consider that the dwelling has vernacular qualities and worthy of retention.

The proposed development comprises alterations, first floor extension and a large two storey rear extension to a modestly scaled cottage. In respect of the existing structure, the proposal comprises demolition of a rear return, all internal walls and 2no. chimney breasts, modification of all window openings, removal of hipped roof, raising of eaves, construction of a dormer style first floor level, construction of a new gable ended pitched roof, 3no. dormer windows on the front elevation replacement of front porch. I consider that for all intents and purposes, by reason of the extent of works proposed to the house itself taken with the scale of the proposed rear extension, the development is more akin to a replacement dwelling than renovation of an existing dwelling, contrary to Policy HCAP22 of the Fingal Development Plan.

Furthermore, in my opinion, the character of the cottage would be eroded by the first-floor extension, dormer windows, revised roof profile, removal of chimney stacks, larger front porch and alteration to and lack of coherence in fenestration. Furthermore, whilst a higher eaves height allows for first floor accommodation in the form proposed, I consider that it creates a disproportionate relationship in the scale between the roof and walls. As such, I am not satisfied that the design approach presented complies with the criteria set down in relation to the refurbishment of vernacular dwellings, particularly in High Amenity Areas, contrary to Policy GINHP28, Objective GINHO67, Policy HCAP22 and Objective DMSO190 of the Fingal Development Plan.

- 7.1.5. Section 3.5.15.13 of the Fingal Development Plan, which clearly stipulates that the restoration of disused vernacular cottages in the rural area will not be subject to the local need policy for new dwellings subject to compliance with a number of parameters including that the distinctive vernacular character of the dwelling is retained and that where the building is derelict, it must be proven that it is structurally capable of supporting the proposed works. This has not been addressed in the application or

appeal documentation. On this basis, it has not been clearly demonstrated that the proposed development and nature of same complies with the requirements of Section 3.5.15.13 of the Fingal Development Plan.

- 7.1.6. The proposed rear extension would be positioned off-centre to the rear of the existing dwelling, extending c. 3.1m beyond the western side building line, with a ridge height of c. 1.21m above that of the proposed new roof to the existing dwelling. The roof profile comprises a shallow pitch to cover a wide building footprint of c. 12m, compared to a deeper pitched roof to the existing dwelling to the front. As such, by reason of the foregoing, I consider that the rear extension, in conjunction with the proposed alterations to the dwelling, is not in harmony with, or subordinate to, the existing built form, and would have a significant and negative visual impact on the rural area, being a High Amenity Area, contrary to Policy GINHP28, Objective GINHO67, Policy SPQHP41, Objective SPQHO45 and Section 14.12.13 of the Fingal Development Plan.
- 7.1.7. The appeal refers to a 2016 permission to extend a single storey cottage at Rogerstown Lane in Lusk. Having reviewed the particulars of that permission, I do not consider it relevant to the appeal. Applications are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

7.2. Residential Amenity

- 7.2.1. Policy SPQHP41 and Objective SPQHO45 of the Fingal Development Plan support dwelling extensions subject to the protection of residential amenities.
- 7.2.2. In respect of the alterations to the existing dwelling, the first-floor extension includes replacement of a hipped roof (ridge height c. 5.35m) with a gable-end roof (ridge height of 6.55m).
- 7.2.3. The Planning Authority concluded that by reason of the design and positioning of the structure relative to the adjoining dwelling, the first-floor extension would not result in an overbearing, overlooking or loss of light impact on the adjoining dwelling.
- 7.2.4. The first floor extension and replacement roof does add bulk to the property boundary however I consider, as per the conclusion of the Planning Authority, that by reason of design and positioning of the structure relative to the adjoining dwelling, the first-floor

extension would not result in an overbearing or loss of light impact on the adjoining dwelling.

- 7.2.5. In terms of overlooking, whilst there are no windows at first floor level, I do note that the proposal includes a window on the eastern elevation at ground floor of the existing structure, to serve the open plan kitchen / dining area. By reason of the fact that the eastern gable of the appeal site dwelling defines the property boundary, this window would be on the boundary, interfacing directly with the neighbouring property. Notwithstanding its high-level design, I consider a window on the boundary is unnecessary would lead to a perceived loss of privacy to the neighbouring property. The window could be omitted by condition if the Board was minded to grant permission.
- 7.2.6. In respect of the proposed rear extension, this would have a storey and a half design, a ridge height of 7.76m, an eaves height on the eastern side elevation of 3.95m, and a depth of 13.3m coming within 2.5m of the eastern side boundary.
- 7.2.7. The Planning Authority concluded that by reason of fenestration detail, the rear extension would not cause a loss of privacy to the adjoining dwelling, 'Le Verna', but by reason of its mass, bulk, scale, location and height, the rear extension would be overbearing on the adjoining dwelling.
- 7.2.8. The appeal includes a letter of support from the owner / resident of the adjoining dwelling 'Le Verna', who, incidentally, is also the current owner of the dwelling which is the subject of this appeal. The letter of support contends that by reason of the design of the extension and level difference between the two dwellings, there would be no loss of outlook or loss of privacy to 'Le Verna'.
- 7.2.9. In terms of privacy, on the rear extension there are no habitable room windows facing east towards 'Le Verna'. For this reason, I am satisfied that the rear extension would not result in a loss of privacy to the adjoining dwelling.
- 7.2.10. I consider the pertinent issue to be outlook and whether the proposed rear extension would cause a negative overbearing impact on the adjoining dwelling.
- 7.2.11. The adjoining dwelling sits slightly deeper into the site compared to that of the appeal site dwelling. This, along with its slight north to north-west orientation, results in the outlook from the west side and rear of the adjoining dwelling being potentially more

sensitive to residential amenity impact from a rear extension to the appeal site, compared to dwellings with the same building line. Furthermore, the adjoining dwelling includes a domestic shed to the northern end of the rear garden, therefore, considering the setback from the road, the rear amenity space is relatively contained.

- 7.2.12. The proposed extension, with a depth of c. 13.3m, would extend beyond the rear building line of the adjoining dwelling and to within c. 2.5m of the property boundary. I consider that by reason of the eaves height together with the depth close to the boundary, and positioning and orientation of the adjoining dwelling, the extension would appear as a significant bulk when viewed from the neighbouring property.
- 7.2.13. Having regard to the foregoing, I consider that the proposed rear extension, by reason of eaves height, together with the scale and bulk proximate to the eastern boundary, would be overbearing on the adjoining dwelling, causing a loss of outlook and negatively impacting on its residential amenity, contrary to Policy SPQHP41 and Objective SPQHO45 of the Fingal Development Plan.

7.3. Other Matters

The Planning Officer's Report refers to wastewater and surface water management, access / traffic safety, trees / landscaping and bat roosting, and acknowledges recommendations made in reports received from internal sections of Fingal County Council but does not consider these matters any further on account of the recommendation to refuse permission. For the purposes of transparency, I will discuss these matters briefly.

Surface water run-off would be disposed to an on-site soakaway. For wastewater, it is proposed to install a new on-site tertiary wastewater treatment system and infiltration/treatment area, with design capacity of PE8. I have reviewed the content of a Site Characterisation Form submitted with the application against the requirements of the EPA's Code of Practice for Domestic Wastewater Treatment Systems, 2021. I am satisfied the proposed drainage and wastewater treatment system would be acceptable. The Council's Water Services Department did not object to the proposal in respect of wastewater or surface water management.

Having regard to the nature of the development and that there would be no change to the existing access arrangement to a local road, which, I noted during my site inspection, has a 50km per hour speed limit, I consider that the proposal would not

lead to traffic safety issues. I am also satisfied that the protection of trees and root systems during construction and bat surveys could be controlled by way of suitable conditions if the Board was minded to grant 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 and intervening landuse, 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 that planning permission be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1.1. The subject site is located in an area zoned 'HA' - High Amenity, for which the objective is "*to protect and enhance high amenity areas*", as set out in the Fingal Development Plan 2023-2029. Having regard to the nature and scale of the proposed development, comprising alterations and extensions to a single-storey vernacular dwelling, it is considered that by reason of the design of the extensions, in terms of height, scale, bulk and fenestration detail, the proposed development would have a significant and negative impact on the character and setting of the existing dwelling and visual amenity of the rural area, would therefore be contrary to Policy GINHP28, Objective GINHO67, Policy HCAP22, Objective DMSO190 and Section 14.12.13 of the Fingal Development Plan 2023-2029; and by reason of the design of the rear extension, in terms of height, scale and bulk, the proposed development would have a significant and negative overbearing impact on the adjoining dwelling 'Le Verna' to the east; and would therefore be contrary to Policy SPQHP41 and Objective SPQHO45 of the Fingal Development Plan 2023-2029; 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.

Jim Egan
Planning Inspector

23rd September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319872-24		
Proposed Development Summary	Renovation and extension of dwelling with all associated site works.		
Development Address	Ballealy Lane, Lusk, Co. Dublin, K45 C593		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No X	No further action required
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?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
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]?			
	Threshold	Comment (if relevant)	Conclusion
No			No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

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 subject site is not located within or adjacent to any European Site. The closest European Sites, part of the Natura 2000 Network, are the Rogerstown Estuary SAC (Site Code: 000208) and Rogerstown Estuary SPA (Site Code: 004015) located 215m to the north; and the Malahide Estuary SAC (Site Code: 000205) and Malahide Estuary SPA (Site Code: 004025), located 3.6km to the north.

The site is also located within the *Rogerstown Estuary Ecological Buffer Zone*, as identified under the Fingal Development Plan, designated to protect the ecological integrity of nationally and internationally designated sites.

The proposed development is located in a rural area and comprises the renovation and extension of an existing dwelling, and installation of a new tertiary wastewater treatment system.

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:

- Domestic nature of the development
- The distance from European Sites, absence of ecological pathways to any European Site, and the intervening land to the north comprising a former landfill, rehabilitated for use as a public park.

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.