



An
Bord
Pleanála

Inspector's Report

ABP-320196-24

Development	Retention of alterations previously approved under reg. ref. F23A/0152; construction of hipped roof and all associated site works.
Location	The Coaches, Malahide Road, Swords, Co. Dublin, K67 W1R7.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F24A/0422E.
Applicant(s)	Robbie Collins.
Type of Application	Permission for retention.
Planning Authority Decision	Refuse permission and refuse retention.
Type of Appeal	First Party.
Appellant(s)	Robbie Collins.
Observer(s)	None.
Date of Site Inspection	1 st October 2024.
Inspector	Ciarán Daly

1.0 Site Location and Description

- 1.1. The subject site, accessed off the Swords Road (R106), consists of a dormer pitched roof bungalow dwelling with modest hipped elements and with ground floor side extension with pitched and hipped roof elements. It is a relatively long narrow site that slopes somewhat downhill towards the rear and behind which there is a construction site. The house is set back from the street at an angle and is accessed from the public road to the front and there is also a laneway access located along the western side of the site which serves the adjacent site to the rear. The front garden type area, which has been split into two sections by a timber fence, consists of mainly a gravel surface with each area accessed from the laneway by separate gates.
- 1.2. The site is bordered by walls to the sides and rear of c.2m in height and on the western side adjacent to the laneway there are two pedestrian access gates provided and there is a concrete wall boundary beside the vehicular access with the public road.
- 1.3. There are residences adjacent to the site to the east and west with a driveway / laneway access to a site to the rear immediately bordering the site to the west. The streetscape either side of the house consists of a mix of house types and sizes with bungalows and two storey dwellings of differing designs located along the street and generally set back from the street.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- Retention for alterations to the permitted extension including:
 - revisions to set back from eastern boundary and alignment with the main house,
 - increased floor area,

- changes to window positions on the east and west elevations.
- Hipped roof over amended single storey extension.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council decided to refuse permission for the proposed development for the following reason summarised below:

1. The proposal is contrary to the 'RS' zoning objective in that it fails to protect and improve the residential amenity of the area. It is considered to be overdevelopment due to its scale and proximity to adjacent property and would result in overlooking of such properties. The proposal would seriously injure visual and residential amenity in contravention of Policy SPQHP41 (residential extensions) and SPQHO45 (domestic extensions) and would not be in visual harmony with the existing dwelling and would set an undesirable precedent.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Fingal County Council planning reports form the basis for the decision. The Planner's Report concluded that the development would be of inappropriate scale, design and undue visual and residential impact contrary to the Development Plan. It was found to conflict with the zoning objective for the site, would not promote and protect the residential setting of the area and would not be in keeping with the existing dwelling on the site and would set an undesirable precedent. The report also noted a visual perception of encroachment and overlooking of neighbouring property. The proposed extension at c. 159sqm is considered overdevelopment. It was noted that the layout of the front of the site, where planting and boundaries have been removed/changed, does not accord with the drawings.

3.2.2. Other Technical Reports

- Transportation Planning: No objection but would not support increased parking provision having regard to layout changes observed on site.
- Water Services: No objection subject to conditions.

3.3. Prescribed Bodies

- Uisce Eireann: No objection subject to conditions.
- Dublin Airport Authority (DAA): No objection. Recommended consultation with IAA and IAA-AN Ireland.
- Irish Aviation Authority (IAA): No report received.

3.4. Third Party Observations

One third party observation was received which can be summarised as follows:

- Nothing substantial has changed since the previous refusal of permission.
- Roof windows were not previously approved.
- A total disregard for the planning and legal process has been demonstrated.
- A western boundary wall has been erected without planning permission.
- The building is totally out of character for the area.
- The building appears to be a multi-unit building and not a family dwelling.
- The building has an industrial bin collection service not consistent with a family dwelling.

4.0 Planning History

4.1. Appeal Site

Enforcement file: 23/171A referenced in the Planner's Report.

F23A/0791: Permission for retention refused by the Planning Authority (PA) for alterations and amendments to the permission granted under reg. ref. F23A/0152 as

follows: 1. increased setback of extension along eastern boundary and alignment with main house, 2. extended projection along western elevation of approved extension with additional floor area (38sqm), 3. alteration to the permitted roof profile to single storey extension consisting of a stepped flat roof replacing the approved pitched roof, 5. Window changes, 6. 3 no. additional roof lights 1.1 m x .60m to western elevation to existing main pitch roof. Reason for refusal related to failure to protect residential amenity contrary to the 'RS' zoning objective, out of character with the main house, overdevelopment due to scale and proximity to residences, visual encroachment and undesirable precedent.

F23A/0152: Permission granted by the PA for removal of the shed structure to rear, (ii) new replacement single storey extension to rear house with internal and external elevation alterations (iii) extend front entrance porch.

Condition no. 2 required the entire premises to be used as a single dwelling unit.

4.2. Site Surrounds

Rear of The Coaches, Malahide Road, Swords, Co Dublin: F23A/0394: Permission granted and granted on appeal (ABP ref. ABP-318555-23) for conversion of a commercial vehicular store to single storey residential dwelling including extension and modifications to existing structure, upgrade for habitable purposes including of the front vehicular entrance and upgrade of private access to the rear.

Hidden Ridge, Malahide Road, Swords, Co Dublin: F00A/0264: Permission granted by the P.A. for a single storey bungalow to rear.

Anenda, Malahide Road, Swords, Co Dublin: F98B/0784: Permission granted by the P.A. for single storey kitchen extension at the rear of house and the retention of a conservatory at side of house.

5.0 Policy Context

5.1. Fingal County Development Plan 2023 – 2029 (CDP)

- 5.1.1. Under the CDP, the site is zoned under zoning objective 'RS' which is to "*Provide for residential development and protect and improve residential amenity*". Residential is

listed as “*permitted in principle*” under the zoning. The site is located within Dublin Airport Noise Zone D.

5.1.2. Relevant policy policies and objectives of the current CDP include:

- Section 3.5.13 – Compact Growth, Consolidation and Regeneration
 - SPQHP38 – Compact Growth, Consolidation and Regeneration
 - Objective SPQHO37 – Residential Consolidation and Sustainable Intensification
- Section 3.5.13.1 – Residential Extensions
 - SPQHP41 – Residential Extensions
 - SPQHO45 – Domestic Extensions
- Table 8.1 Aircraft Noise Zones
- Section 14.6.5 Open Space Serving Residential Development
- Section 14.6.6.3 Separation Distances
- Section 14.8.2 – Separation Distances
- Section 14.8.3 Private Open Space
- Section 14.10.2 – Residential Extensions
- Section 14.10.2.2 Side Extensions
- Section 14.10.2.3 Ground Floor Extensions (rear)

5.2. Section 28 Ministerial Guidelines

5.2.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (Compact Settlement Guidelines).

5.3. Natural Heritage Designations

5.3.1. The nearest designated conservation site is located c.1.1km north at the Malahide Estuary Special Protection Area (SPA) and Malahide Proposed Natural Heritage Area (PNHA) (site code 004025), Malahide Estuary Special Area of Conservation (SAC) (site code 000205) and c.1.7km south at Feltrim Hill PNHA (site code 001208).

5.4. EIA Screening

5.4.1. See Form 1 appended to this report. The proposed development is not a class of development specified in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended. Therefore, screening for EIA is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been prepared and submitted on behalf of the Applicant, Robbie Collins of The Coaches, Malahide Road, Swords, Co Dublin. The grounds of this appeal can be summarised as follows:

- In comparison with precedent for high density development in the vicinity (F22A/0709, F19A/0521 (PL.06F.307526), F01A/0502) and noting the floor area of 359sqm on a site area of 0.1ha, there is no overdevelopment. The precedents demonstrate that higher densities for multiple unit housing has been permitted in the vicinity of the subject site and regard should have been had to this.
- The development accords with the zoning objective and there is only 38sqm additional floor area for retention with all other areas permitted so there is no basis for a refusal contrary to the 'RS' zoning objective.
- In relation to alleged unauthorized development, this is not a requirement for the Board and it does not restrict the assessment of the development.
- The development does not overlook any adjacent properties also noting the distances to the east and west, with the two access lanes and the boundaries of the site well screened by mature planting.
- CDP policy for extensions support the development. There would be an 11.8% increase in overall floor area.
- No Visual Impact Statement was requested or submitted, and the negative finding is subjective. The property to the west is more elevated.
- The citing of undesirable precedent is without foundation given the pattern of infill and backland development in the vicinity. The development is for minor changes only.

- Exceptional family circumstance are cited.
- There are logical design reasons for the design revisions including improved energy efficiency, a less imposing structure, increased separation to the east improving residential amenities, more efficient use of the site as realignment creates more floor space and the additional space is not considered material and is exempted development.
- The window changes relate to errors in the original application.
- A letter of support was included from Hidden Ridge, Malahide Road, Swords, Co Dublin.

6.2. Planning Authority Response

6.2.1. The Planning Authority notes that its view on the application has not changed and reminded the Board that there is a live enforcement case for the site.

6.3. Observations

- None.

7.0 Assessment

7.1. I consider the main issues in determining this appeal are as follows:

- Policy and Precedent.
- Visual and Residential Amenity.
- Enforcement
- Exceptional circumstances

7.2. Policy and Precedent

7.2.1. The relevant policy in relation to extensions includes Section 14.10.2 – Residential Extensions and Section 14.10.2.3 Ground Floor Extensions (rear). In this regard, the CDP states, “*The design of extensions must also have regard to the character and form of the existing building, its architectural expression, remaining usable rear private open space, external finishes and pattern of fenestration*”. It states that “*Ground floor rear*

extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining to serve the dwelling house. The proposed extension should match or complement the existing dwelling house”.

7.2.2. In relation to private open space, I note Section 14.8.3 states that “*private open space shall usually be provided to the rear of the front building line of the house and to the requirements set out below. Narrow strips of open space to the side of houses shall not be included in the private open space calculations*”. In this context, I note that no useable areas of private open space remain to the rear of the dwelling or to the side of the rear extensions. The lack of quality useable open space I observed on the site appears to be inconsistent with the drawings presented and as confirmed by the photo submitted in Appendix 1 of the appeal. On either basis, the private open space area to the rear is not sufficient to be considered useable including on the basis of the lower standards found in SPPR2 of the Compact Settlement Guidelines.

7.2.3. To the front of the dwelling, there is an area of open space which, on my visit, was sub-divided by a timber fence and one area of which was in use for car parking. The submitted site layout plan suggests a car parking area and landscaped area closer to the front boundary which is not what I observed on my visit. I do not consider that this area of open space to the front of the dwelling can function as quality private open space given the lack of privacy to the front of the dwelling, its current layout and use partly for car parking and capability to be used for two separate parking areas each with its own gate, its proximity to the adjacent public road and vehicular access and to the adjacent laneway without adequate screening.

7.2.4. The extension footprint would be significant, in the context of a site with a small area of remaining private open space to the rear, and also noting the close proximity to the western site boundary. Noting the lack of open space and close proximity to boundaries to the rear and side, I am of the view that the rear extensions do not accord with CDP policies in relation to extension layout and I consider this to be overdevelopment of the site.

7.2.5. I note that this layout in close proximity to boundaries to the west and north visually dominates the rear area of the site and the character of the immediate surroundings. This has resulted in an excessive urban appearance that has reduced the qualities of

the residential amenities of the area which generally include open and landscaped space to the rear of dwellings. This form of development gives the site an excessively built out appearance and I consider this to be contrary to the 'RS' zoning objective in that residential amenities would be unduly harmed rather than protected notwithstanding that "*residential*" development such as this is permitted in principle. If this were allowed, it would create a precedent for similar types of development that would significantly erode private open standards for dwellings as well as the character of existing residential development of this type.

7.2.6. I note the appellant's arguments in relation to precedents for high density development in the vicinity under reg. refs. F22A/0709 (3 infill dwellings granted permission at 3 Montgorry, Malahide Road); F19A/0521 (PL.06F.307526) (154 apartments and commercial space granted permission at Montgorry, Malahide Road) and F01A/0502 (58 apartments granted permission at 1, 2 and 2A Montgorry, Malahide Road). One dwelling with extension is located on the subject site at a density of 10 units per hectare. The site coverage of the development would be 48.8% based on the stated floor and site areas.

7.2.7. While it is acknowledged that the density and site coverage could be viewed as low and that compact growth is encouraged in the CDP, these comparisons are not directly relevant to an extension proposal and the Planning Authority cannot ignore the resulting built form to the rear of the house because of the open area to its front. It is nonetheless noted that the density of development is not increased by the proposal as no additional units have been added. I do not consider that the cited permissions overcome the significant overdevelopment built form design issues noted above and below.

7.3. Visual and Residential Amenity

7.3.1. I note no significant issues, in principle, in relation to the design for the flat roof rear extension to the existing dwelling to be retained as I consider that this design form would, were it not for the close proximity to boundaries, integrate with the dwelling to a sufficient degree and in the context of the laneway and proximity to the site boundaries to the east and west, it would lessen any perceived visual impact by its reduction of scale.

7.3.2. Having visited the site and having regard to the pattern of development in the vicinity with houses of similar and greater scale and private rear gardens, noting the

repositioning of the development without private open space to the rear and the increased floor area, I have serious concerns in relation to its bulk impact over the rear of the site with significant loss of private open space and as a result on the character of the area. These impacts are due to the relatively large built form to the rear of the dwelling with no open space and which is indicative of overdevelopment. This unduly negative impact on the character of the site and area fails to protect and improve the residential amenity of the area and is thus contrary to the 'RS' zoning objective for the site which is to "*Provide for residential development and protect and improve residential amenity*".

7.3.3. To note I consider that the side facing ground level window openings integrate with the design form of the extensions and do not give rise to undue overlooking and rear boundary screening and/or boundary planting on or in the vicinity could cater for any perceptions in this regard.

7.3.4. In relation to the proposed hipped roof elements over the amended rear extensions, I note that the roof scale would be reduced by reference to the permitted design and would sufficiently integrate with and align with the design of the dwelling given the lower scale and similar design forms. I do not consider that the proposed hipped roof at the realigned house position would give rise to any undue negative impacts on adjacent residential amenities by reason of overbearing or overshadowing but this cannot be separately permitted.

7.4. Enforcement

7.4.1. It is noted that the subject development is the subject of enforcement action by Fingal County Council and also that assertions have been made in relation to the construction of boundary and internal walls on the site which are outside the scope of this application and that may or may not require planning permission. A previous application for retention of permission (Reg. Ref. F23A/0791) on the site was refused permission. Notwithstanding this, matters of alleged or possible unauthorised developments are ones for Fingal County Council and not the Board. I also note no previous conduct of such a scale by the applicant as to merit refusal due to past failures to comply with planning requirements.

7.5. Exceptional circumstances

- 7.5.1. The appellant has outlined exceptional family circumstances to justify the development. It should be noted that no planning rationale in this regard has been put forward to support this case and I do not consider it relevant to the considerations of the proper planning and sustainable development of the area and I recommend that the Board disregard this element of the appeal.

8.0 AA Screening

- 8.1. I have considered the proposed residential extension in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located c.1.1km south of the Malahide Estuary Special Protection Area (SPA) (site code 004025) and Malahide Estuary Special Area of Conservation (SAC) (site code 000205).
- 8.2. The proposed development comprises retention of alterations to a rear extension and proposed hipped roof to the dwelling.
- 8.3. Having considered the nature, scale and location of the project, 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:
- The small scale and domestic nature of the development.
 - The location of the development in a serviced urban area and the urban nature of intervening habitats.
 - Taking into account the screening determination carried out by the Planning Authority.
- 8.4. 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.

9.0 Recommendation

- 9.1. I recommend that the planning application be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. The proposal is contrary to the 'RS' zoning objective for the site in that it fails to protect and improve the residential amenity of the area as it results in a built form of excessive scale to the rear of the dwelling with no private open or landscaped space provided. This lack of open space for a dwelling is out of character with the area and is indicative of overdevelopment of the site and would create an undesirable precedent for similar development in the area. The site layout and lack of quality private open space to serve the dwelling proposal is thus contrary to the policies of the Fingal County Development Plan 2023 – 2029 including Section 14.10.2 (Residential Extensions) and Section 14.10.2.3 (Ground Floor Extensions (rear)). The proposed development is therefore 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.

Ciarán Daly
Planning Inspector

5th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Retention of alterations to extension previously approved under reg. ref. F23A/0152; construction of hipped roof and all associated site works.		
Development Address	The Coaches, Malahide Road, Swords, Co. Dublin, K67 W1R7		
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	X
		No	
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	X		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)
No	X		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:** _____