



An
Bord
Pleanála

Inspector's Report ABP-320571-24

Development	Construction of a house and all associated site works.
Location	1 Marian Park, Baldoyle, Dublin 13, D13 R220
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0050
Applicant	Mary Brophy
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Mary Brophy
Observers	None
Date of Site Inspection	2 nd October 2024
Inspector	Jim Egan

1.0 Site Location and Description

- 1.1.** The subject site, with a stated area of 0.0783 ha, comprises No. 1 Marian Park, located within an established residential area of Baldoyle, Dublin 13.
- 1.2.** Marian Park is a 1950s housing estate comprising two-storey semi-detached and terraced dwellings, and a mature parkland on the northern end. There is general uniformity with the original stock of houses in terms of building lines, elevational design, material finishes and boundary treatments. This uniformity, together with the interface to the park and front garden landscaping evident in most properties, defines the area's character. An infill housing development, Marian Court, comprising two blocks of two-storey terraced dwellings, was constructed in the mid-2000s on the northern end of the park, opposite the appeal site. I also note a two-storey detached dwelling was constructed in the mid-2000s on an infill / corner site immediately north of the appeal site.
- 1.3.** The site comprises a two-storey semi-detached dwelling with a single storey side and rear extension, along with a lean-to domestic garage and shed. The site includes in-curtilage car parking to the front and a relatively large garden on the north side and rear.
- 1.4.** Boundary treatments to the site comprise a low block wall along the roadside, and also a higher block wall running north from the front building line of the dwelling through the side garden, providing a separation between the private amenity space at the rear from the public interface.

2.0 Proposed Development

- 2.1.** Planning permission is sought for the construction of a part single, part two-storey, five-bedroom, detached dwelling (c. 201sq.m) in the side garden of the site at No. 1 Marian Park. It is also proposed to demolish existing outbuildings and an internal block wall to facilitate the development. Alterations to the front boundary is proposed to create separate entrances to the existing and proposed dwellings, and each to be provided with 2no. on-curtilage car parking spaces. Boundary treatments, landscaping, connection to utilities and all ancillary site works are also proposed.

- 2.2.** Further information, submitted on the 1st July 2024, comprises modifications to the design of the proposed dwelling, including a reduction in the scale at both ground and first floor levels, and by association, a reduction in the number of bedrooms from 5no. to 4no.

3.0 Planning Authority Decision

3.1. Decision

Planning permission refused for the following reasons:

- 1. The proposed dwelling by virtue of its excessive scale and height would be visually incongruous and out of character with the surrounding streetscape. The proposed development as a result would contravene Objectives DMSO31 and DMSO32 Fingal County Development Plan 2023-2029 and would consequently contravene the 'RS' zoning objective and vision.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two Planner's Reports on file, the first one dated 21st March 2024 and the second, following the receipt of Further Information, is dated 24th July 2024 and subsumes the earlier report.

The following main points were made in the first Planner's Report, dated 21st March 2024:

- Residential use is permitted in principle under the RS zoning objective and that generally the development of underutilised infill sites is encouraged by the Planning Authority subject to the protection of existing residential amenities.
- The dwelling meets minimum standards for internal room sizes, private amenity space and side separation distances, and would not impact on the privacy of adjoining dwellings.
- The dwelling would not be in keeping with the character of the area by reason of proposed ground floor extensions / projections, length of first floor level, hipped roof profile and metallic cladding on front elevation.

- Access and parking arrangements are considered acceptable.
- Site identified as being at risk of flooding. Site Specific Flood Risk Assessment required and any associated change to finished floor level should consider overall building height.
- Revised Surface water management proposal required to address concerns with regards the substantial areas of additional paving proposed.

Further Information was requested on the 22nd March 2024 in relation to the following three items:

- Revised plans to be submitted to address concerns with regards material finishes, ground floor front building line, bulk at first floor level and roof profile.
- Site Specific Flood Risk Assessment to be submitted.
- Revised surface water drainage proposal to be submitted.

The Planning Report dated 24th July 2024 made the following points in respect of the FI received on the 1st July 2024:

- Design revisions are satisfactory however height of remaining ground floor projection is excessive.
- Surface water management proposals are acceptable.
- Site Specific Flood Risk Assessment is noted, however revised dwelling height in association with a raised finished floor level is not acceptable from a visual amenity perspective, and recommended refusal on this basis.

3.2.2. Other Technical Reports

- *Transport Planning Section* – Sightlines and provision of 2no. in curtilage car parking spaces per dwelling is acceptable. No objection subject to standard conditions.
- *Water Services Department* – In respect of flood risk, the Strategic Flood Risk Assessment (SFRA) contained within the Fingal Development Plan identifies the appeal site as being at risk of flooding. Residential is classed as being 'Highly Vulnerable' therefore a Site Specific Flood Risk Assessment is required. In respect of surface water, revised drainage proposals are required.

In response to further information received on the 22nd March 2024, the Water Services Department had no objection in respect of flood risk and no objection subject to standard conditions in respect of surface water drainage.

3.3. Prescribed Bodies

Uisce Éireann – No objection subject to standard conditions with respect of connection agreements and works. A similar response was received in respect of the further information received on the 1st July 2024.

3.4. Third Party Observations

None

4.0 Planning History

4.1. Appeal Site: None

4.2. Surrounding Area

- **P.A. Ref. F03A/0332** – refers to a 2004 grant of permission for a detached two-storey dwelling on a site immediately north of the appeal site. The dwelling was subsequently constructed.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

National Strategic Outcome 1 – Compact Growth

National Policy Objective 3b - At least 50% of new dwellings targeted in the five cities and their suburbs

National Policy Objective 35 - encourages infill development

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

- Baldoyle identified as being within the suburbs of Dublin City, for which compact growth is a key priority.

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)
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)

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*'.
- Policy CSP12 – Promote compact growth in line with the NPF and RSES
- Policy CSP19 – At least 50% of all new homes to be built, within or contiguous to the existing built-up area of Dublin city and suburbs
- Policy CSP22 – Consolidate the development and protect the unique identity of Howth, Sutton and Baldoyle
- 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 DMSO27 – Minimum Private Open Space Provision
- Objective DMSO31 – Infill Development
- Objective DMSO32 – Infill Development on Corner / Side Garden Sites
- Objective DMSO204 – Surface Water Run-Off from Domestic Driveways
- Objective DMSO212 – OPW Flood Risk Management Guidelines

5.5. Natural Heritage Designations

The site is not located within or adjacent to any designated sites. The closest designated sites are the Baldoyle Bay SPA (Site Code: 004016), Baldoyle Bay SAC (Site Code: 000199) and Baldoyle Bay pNHA (Site Code: 000199), all located c. 900m due east 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 reason for refusal:

- Proposed Site Plan and Floor Plans – Dwg. No. 03 Rev. B
- Proposed Elevations and Sections – Dwg. No. 04 Rev. B
- 3D Images – Dwg. No. 10 Rev. B

The revised plans include the following amendments:

- Ridge height of the dwelling reduced by c. 599mm.
- Single storey flat roofed front projection reduced in height by c. 455mm, reduced in depth by c. 400mm, and reduced in width by c. 286mm.
- Minor alterations to front façade design and window detailing.

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

- Contends that the revised dwelling particularly in terms of height, as shown on the drawings submitted as further information, has been directly informed by the Site Specific Flood Risk Assessment, and that achieving current housing standards whilst respecting the character of an area should not be a rigid assessment. However, in an effort to achieve a positive outcome, the height of the dwelling has been reduced in the amended plans submitted for the consideration of the Board.
- Contends that the height of the single storey front projection, as shown on the drawings submitted as further information, is not excessive in the context of the overall dwelling. However, in an effort to achieve a positive outcome, the height and footprint of the front projection has reduced in the amended plans submitted for the consideration of the Board.

6.2. Planning Authority Response

A submission received on 12th September 2024 can be summarised as follows:

- The site was considered a suitable location for an infill dwelling in line with local and national policy.
- Further information received addressed concerns with regards flood risk and surface water management.
- Revised dwelling submitted at further information stage remains excessively large and visually dominant.
- Further revisions submitted to An Bord Pleanála would somewhat mitigate the visual impact of the development.
- 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 reason for refusal. Revised plans and particulars form part of the appeal. This assessment is based on the plans and particulars received by Fingal County Council on 29th January 2024, as amended by further information submitted to Fingal County Council on 1st July 2024, and the further plans and particulars received by the An Bord Pleanála on 15th August 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 reason for refusal, which is:

- Scale and Design

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

7.1. Scale and Design

- 7.1.1. The appellant seeks to address the reason for refusal, which was centred on the scale of the dwelling, particularly by reason of the revised ridge height as shown on the plans submitted as further information to the Planning Authority.
- 7.1.2. Objectives SPQHO40 and SPQHO42 of the Fingal Development Plan 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. Objective DMSO212 requires the submission of a Site-Specific Flood Risk Assessment (SSFRA) where necessary.
- 7.1.3. An SSFRA, submitted to the Planning Authority as further information, confirmed that the site is located within a flood zone of a 0.1% AEP (Annual Exceedance Probability) coastal flood event (Flood Zone B) and that, for this reason, there is a residual risk to the site of coastal flooding. The SSFRA refers to Table 6.4 of the Strategic Flood Risk Assessment, as contained in the Fingal Development Plan, which sets out that the minimum design level requirement for a new dwelling (Highly Vulnerable use) is that the finished ground level should be equal to the 0.1% AEP HEFS CC (High End Future Scenario Climate Change) flood level plus 250mm freeboard. The SSFRA notes that the revised finished ground floor level at +4.53 is consistent with the above development plan requirement, and further recommends a number of additional mitigation measures relating to internal works and includes an Emergency Response Plan.
- 7.1.4. The Planning Authority was satisfied that the revised drawings submitted as further information addressed the issue of flood risk by raising the finished ground floor level however considered that the associated increased building height would detract from the visual amenity of the area.

- 7.1.5. In general the Planning Authority was satisfied with the other revisions to the proposal submitted as further information, in terms of first floor bulk, roof profile and material finishes, however concluded that the single remaining projection at ground floor would be excessive in height.
- 7.1.6. The applicant has submitted revised plans as part of their appeal, which form the basis of my assessment. The revisions show the ridge height of the dwelling reduced by c. 599mm and the single storey flat roofed front projection reduced in height by c. 455mm, reduced in depth by c. 400mm, and reduced in width by c. 286mm. Alterations also comprise minor alterations to the front façade design and window detailing.
- 7.1.7. The dwelling would have a ridge height of +7.085 compared to +6.510 for the existing dwelling on the site, a difference of 575mm. Noting the single storey side extension that would be retained on the north side of the existing dwelling, there would be a c. 6.3m separation between the southern gable of the proposed dwelling and the first floor gable end of the existing dwelling. I consider that this spacing allows the difference in ridge height to be sufficiently absorbed and therefore acceptable from a visual amenity and streetscape perspective.
- 7.1.8. Furthermore, the drawings indicate that the infill dwelling to the north of the site has a maximum ridge height of +7.360, being higher than the proposed dwelling and existing dwelling on the site, therefore I consider that the proposed infill dwelling allows for an orderly graduation in building height, acceptable from a visual amenity and streetscape perspective
- 7.1.9. Having regard to the foregoing, I consider that the amended proposal included as part of the appeal would not cause undue loss of visual amenity to the area and has overcome the reason for refusal. I am also satisfied that the front single storey projection, by reason of its reduced scale, particularly in terms of height, and associated revisions to the front elevation design would not cause undue loss of visual amenity to the area.
- 7.1.10. Furthermore, I consider that the proposed dwelling meets the minimum standards in respect of internal room sizes, private amenity space, and provision of car parking. I also consider that by reason of adequate setbacks from adjoining properties, including opposing first floor windows, the proposal would not cause loss of amenity to adjoining dwellings, including the existing dwelling on the appeal site. I am also satisfied that the

existing dwelling on the site would retain all sufficient amenities, including on-curtilage car parking and an area of private amenity space above the minimum standard.

- 7.1.11. On the basis of the foregoing, I consider that the proposed dwelling, as per revised plans submitted with the First Party Appeal, is consistent with Objectives SPQHO40 and SPQHO42 of the Fingal Development Plan, and I recommend that permission should be granted.

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 that permission be granted in accordance with the submitted plans and particulars, including amendments received by An Bord Pleanála on the 15th August 2024, and based on the reasons and considerations below, and subject to the conditions set out below.

10.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2023-2029 and the nature, scale and design of the proposed dwelling, 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
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	<p>further information lodged with the Planning Authority on the 1st day of July 2024, and as further amended by plans received by An Bord Pleanála on the 15th day of August 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 development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The mitigation measures contained in the submitted Flood Risk Assessment shall be implemented.</p> <p>Reason: To safeguard future occupants of the dwelling and to protect the environment.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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

30th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320571-24		
Proposed Development Summary	Construction of a house and all associated site works.		
Development Address	1 Marian Park, Baldoyle, Dublin 13, D13 R220		
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			
Yes	X	Class 10 - Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	320571-24	
Proposed Development Summary	Construction of a house and all associated site works.	
Development Address	1 Marian Park, Baldoyle, Dublin 13, D13 R220	
<p>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.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>Proposal comprises the construction of 1no. new infill dwelling. However, the proposal is not considered exceptional in the context of the existing urban environment.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposal would be connected to all public services and utilities.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>Site measuring 0.0783 ha with the proposal to comprise 1no. infill dwelling. The proposal is not considered exceptional in the context of the existing urban environment.</p>	No
<p>Are there significant cumulative considerations having regard to other existing</p>	<p>There are no other developments under construction in the proximity of the site.</p>	No

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 Baldoyle Bay SPA (Site Code: 004016) and Baldoyle Bay SAC (Site Code: 000199).

The proposed development is located in an urban area and comprises the construction of a detached dwelling in a side garden of a residential property. 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.