



An
Bord
Pleanála

Inspector's Report

ABP 320796 - 24

Development

The construction of single storey garage and home office, ancillary to No. 17 and 17a Strand Road, with existing vehicular and pedestrian access off 'The Mall', with on-curtilage car parking; associated boundary treatment; landscaping; SuDs drainage; and all associated ancillary works.

Location

Lands to the rear of No. 17 and 17a Strand Road, Baldoyle, Dublin 13, off 'The Mall', Baldoyle, Dublin 13.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/0026

Applicant(s)

Kevin and Brendan Walsh

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

| | |
|--------------------------------|----------------|
| Appellant(s) | Mark Costelloe |
| Observer(s) | None. |
| Date of Site Inspection | 26/10/2024 |
| Inspector | Aisling Dineen |

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is situated between Strand Road and Warrenhouse Road in the Baldoyle area of Fingal County Council. It is accessed off the short interconnecting road; The Mall. The area is urban in character.
- 1.2. The site is presently a disused space, which is overgrown with scrub vegetation. There is a parking area inside the access with the public road at the north of the site. A lane way/pedestrian right of way appears to flank the east boundary of the site and which services the rear of properties fronting Strand Road.

2.0 Proposed Development

- 2.1. It is proposed to construct a single storey garage and home office, ancillary to No. 17 and 17a Strand Road, with existing vehicular and pedestrian access off 'The Mall', with on-curtilage car parking.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant permission subject to 9 No conditions on the 19th August 2024.

Conditions are of a generic nature.

However, Condition No 5, which is relevant to the appeal states the following:

The developer shall comply with the following requirements of the planning authority:

- a. The proposed development shall not reduce or encroach upon the width of the existing wayleave/right of way.
- b. The height of Boundary Treatment A shall not exceed 1 metre in height.
- c. The design of the pedestrian gate at the entrance to the existing wayleave/right of way (Boundary Treatment D) shall be amended to a simple metal gate as per the entrance at the end of the laneway onto Strand Road.

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Request for Further Information dated: 18th January 2024, requested details relating to site ownership, details relating to pedestrian right of way/historical character and confirmation that the said right of way will remain accessible at an appropriate width to serve the dwellings on Strand Road. Applicant requested to omit the proposed WC in the structure.

Request for Clarification of Additional Information dated: 9th July 2024, requested that the setback along the existing right of way be reviewed. The building was requested to be reduced by 1 metre in width along the eastern elevation and details regarding boundary treatment along the right of way were requested.

3.2.2. Other Technical Reports

3.2.3. Water Services Department

No objection subject to conditions

3.2.4. Transportation Department

The proposed development is located in a 50km/hr speed limit.

The proposed development would involve the construction of a garage and 'home office' and is not considered to be an intensification of use in terms of carparking requirements.

The applicant is not proposing any changes to, or intensification of the existing established vehicular entrance.

The Transportation Planning Section has no objection to the proposed development.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

None.

5.0 Policy Context

5.1. Fingal Development Plan 2023 – 2029

The site is zoned RS, wherein it is an objective 'To provide for residential development and protect and improve residential amenity'.

Adjacent lands are also zoned RS.

Objective SPQH039 – New Infill Development

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

SPQH 042 - Development of Underutilised Infill, Corner and Backland Sites

Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected

SPQH 043 - Contemporary and Innovative Design Solutions

Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area.

Section 14.10.4 Garden Rooms: Garden Rooms can provide useful ancillary accommodation such as a playroom, gym, or study/home office for use by occupants of the dwelling house. External finishes shall be complementary to the main house and any such structure shall not provide residential accommodation and shall not be fitted out in such a manner including by the insertion of a kitchen or toilet facilities. Such structures shall not be let or sold independently from the main dwelling.

5.2. Natural Heritage Designations

The site is located proximate to Baldoyle Bay SAC Site Code 000199, North Dublin Bay SAC Site Code 000206 and Baldoyle Bay SPA Site Code 004016.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant is not appealing the Councils decision to grant planning permission for a home office and garage rather the concern is regarding the right of way – path and condition No 5 (a) stipulated under the decision to grant planning permission, which states that the footpath shall not be reduced or encroached upon.
- It is submitted that neither this condition or the final drawings submitted under clarification of additional information specify the actual widths of all parts of the right of way, especially near No 17 (a) and close to The Mall.
- The lane is used by the ESB and utility providers and also by adjacent neighbours.
- The application drawings showed a width of just 940 mm, which would have represented a reduction in width of the right of way.
- Final elevation drawings submitted under the Clarification of Additional Information showed rendered pillars to match the existing, however these were not demonstrated on accompanying plan drawings.

- It is requested that condition 5 (a) already attached to the notification of decision to grant permission be expanded to include a requirement that the width of all parts of the right of way should be more than 1200 mm, including where new pillars are to be built.
- It is considered that this would be fair given that the applicants measured the existing width, next to number 17, to be 1268 mm and therefore this would be a fair benchmark for parts of the right of way where new pillars are proposed.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

- The application was assessed against the policies and objectives of the Fingal County Development Plan 2023 – 2029 and existing government policy and guidance.
- It was assessed having regard to the development plan zoning objective and as well as impact on adjoining neighbours and the character of the area.
- The assessment considered the site location adjoining existing wayleave/right of way serving existing dwellings on Strand Road.
- Third party objections and concerns were considered.
- Additional information was requested in the form of revised plans to accurately show the extent of the right of way and amendments were sought to the design and siting of the proposed garage/home office and the details received in response to the planning authority were considered to be acceptable.
- The planning authority requests the Board to uphold the decision of the planning authority.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authorities' reasons to grant planning permission and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of Development
- Access Laneway and Condition No 5
- Appropriate Assessment

7.2. Principle of Development

7.3. The site is located to the rear of No 17 and No 17 a Strand Road. The site contains an established historical laneway, which provides access to the rear of adjacent houses along Strand Road and also provides utility access.

7.4. The site is zoned RS where it is an objective 'To provide for residential development and protect and improve residential amenity'. The planning authority approved the proposed development subject to conditions and found no issue with the principle of the subject development. It is noted that the planning authority requested that the WC be omitted from the development under Item 3 of the additional information request, which is appropriate considering that the structure is not being assessed as a habitable unit, nor would this be appropriate or in compliance with Section 14.10.4 of the plan regarding 'garden rooms'. I concur with the approach of the planning authority in all of the above.

7.5. I am satisfied with the principle of the proposed development and I consider that the design is appropriate and will not impact on visual or residential amenities of adjacent properties.

- 7.6. I note that the appellant has no issue with the principle of development and only takes issue with the level of detail submitted and applied by condition of permission, by the planning authority, regarding the width of the established historical service laneway.
- 7.7. Laneway and Condition No 5
- 7.8. The planners report correctly noted that the planning system is not designed as a mechanism for resolving disputes about title to land and that such issues fall under the remit of the Courts. Section 34 (13) of the Act states that a person is not entitled solely by reason of a grant of permission to carry out any development. I concur with this viewpoint.
- 7.9. It is noted that there appears to be an historic wayleave, which acts as a service lane to the rear of some of the properties along Strand Road, which runs through the site. The principle of the existence of this way leave is not in dispute under the application/appeal. The planning authority appropriately sought clarification on the extent of ownership of the lands and confirmation of the existing pedestrian right of way at the lane, by way of an additional information request and further clarification of same. This sought confirmation that the lane would remain accessible at an appropriate width to serve the dwellings. It also required that the west boundary of the garage be recessed by 1 metre. The response to the further information detailed all of the items requested and was to the satisfaction of the planning authority. The response also included a layout plan, which indicate the width of the lane at one specific point to be 1268mm.
- 7.10. The planning authority decided to grant planning permission and decided to impose condition No 5, which addressed the preservation of the width of the existing wayleave/right of way on the lane, the boundary treatment, and the gate type to be used at the entrance of the laneway. I would concur with said conditions and would recommend that the Board apply the conditions as per the planning authority's decision, in the event that the board is mindful of a favourable decision.
- 7.11. The appellant argues that the width of the laneway has only been indicated at one point on the lane and that this dimension is not indicated at the northeast corner of the proposed garage or next to No 17 A, proximate to The Mall. The appellant requests that Condition No 5 (a) be expanded, to include that the width of all parts of

the laneway should be more than 1200 mm, including where new pillars are to be constructed.

7.12. I am satisfied that the revised layout submitted indicated the width of the lane, within the confines of the site, to be 1268 mm and this can reasonably be interpreted to apply to all of the lane/right of way which runs through the site. I am also satisfied that the planning authorities first condition of permission clearly requires that the development be carried out in its entirety in accordance with plans and particulars lodged including the further information received on the 18th June and the 23rd July 2024. There is no requirement on the planning authority to specify actual details of an application, which are already clearly demonstrated on the documents lodged. Accordingly, I am of the viewpoint that the planning authority were entirely correct in its assessment and decision and I concur with the stipulations imposed by the planning authority under Condition No 5.

7.13. However, given that the appellant merely requires clarity on this point, that a minimum distance for the right of way be stipulated for the subject site, I see no reason not to apply this condition, in the interest of clarity. The distance of 1268 mm has already been indicated as the width of the laneway on documents lodged. Therefore, I recommend that Condition No 5 be modified to reflect that the minimum width of the lane/right of way, of 1.2 metres be maintained, on the site.

7.14. Appropriate Assessment

I have considered ABP 320796.24 in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located proximate to the Baldoyle Bay SAC Site Code 000199 and North Dublin Bay SAC Site Code 000206 and Baldoyle Bay SPA Site Code 004016.

The proposed development comprises a single storey garage and home office.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and established urban context of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Minimal nature of works in an established urban context.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

8.1. I recommend that permission be granted.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal County Development Plan 2023-2029, including the zoning objective for the site ('RS – Residential'), which seeks to provide for residential development and protect and improve residential amenity; it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

| | |
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| 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 the planning authority on the 18 th June 2024 and on the 23 rd July 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 |
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| | <p>particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>a. The proposed development shall not reduce or encroach upon the width of the existing wayleave/right of way.</p> <p>b. The existing wayleave/right of way shall be implemented and maintained at a minimum width of 1.2 metres, for the extent of the site, and revised plans demonstrating this width shall be submitted to and agreed with the planning authority prior to the commencement of development.</p> <p>c. The height of Boundary Treatment A shall not exceed 1 metre in height.</p> <p>d. The design of the pedestrian gate at the entrance to the existing wayleave/right of way (Boundary Treatment D) shall be amended to a simple metal gate as per the entrance at the end of the laneway onto Strand Road.</p> <p>Reason: In the interest of proper planning and sustainable development.</p> |
| 3. | <p>The proposed garage/home office shall be used solely for use incidental to the enjoyment of the dwelling house and shall not be used for human habitation or be sold, rented or leased independently of the house and shall not be used for the carrying out of any trade or business.</p> <p>Reason: In the interest of orderly development.</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>Site development and building works shall be carried out only between the hours of 0800 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> |

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| | Reason: In order to safeguard the residential amenities of property in the vicinity. |
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Aisling Dineen
Planning Inspector
14th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|---|---|----------------------|---|
| An Bord Pleanála Case Reference | ABP 320796. 24 | | |
| Proposed Development Summary | The construction of single storey garage and home office, ancillary to No. 17 and 17a Strand Road, with existing vehicular and pedestrian access off 'The Mall', with on-curtilage car parking; associated boundary treatment; landscaping; SuDs drainage; and all associated ancillary works | | |
| Development Address | Lands to the rear of No. 17 and 17a Strand Road, Baldoyle, Dublin 13, off 'The Mall', Baldoyle, Dublin 13. | | |
| 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 | 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 | | Class..... | 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 | | N/A | No EIAR or Preliminary Examination required |
| Yes | | Class/Threshold..... | Proceed to Q.4 |

| 4. Has Schedule 7A information been submitted? | | |
|--|--|----------------------------------|
| No | | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: Aisling Dineen Date: 14/11/2024