

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

16/12/2022

Re:

Demolition of 2 no. existing previously-constructed single-storey extensions and construction of 1 no. single-storey extension and single-storey garden room at St. Fintan's, Strand Road, Sutton, Dublin 13.

Applicant / Appellant:

Sarah Callaghan & Gerard Curley, St. Fintan's, Strand Road, Sutton, Dublin 13.

Planning Authority:

Fingal County Council

Reg. Ref:

FS5/067/22 (Request for Declaration under Section 5)

Decision Date:

1st December 2022

Dear Sir / Madam,

We are the agents for the applicant for the above Request for Declaration under Section 5 application (Ref: FS5/062/22) on which a split decision ("proposal is and IS NOT Exempted Development) was made by Fingal County Council (decision order no: PF/2623/22) on December 1st 2022. On foot of instruction from our client, we hereby submit the following appeal against the decision that part of the Development IS NOT Exempted Development.

Background to Proposed Development, Application History & Appeal

As is set out above, the proposed works for which we sought a Declaration on behalf of our clients essentially comprised 2 elements;

- construction of a single-storey garden room
- demolition of 2 no. existing previously-constructed single-storey extensions and construction of 1 no. single-storey extension.

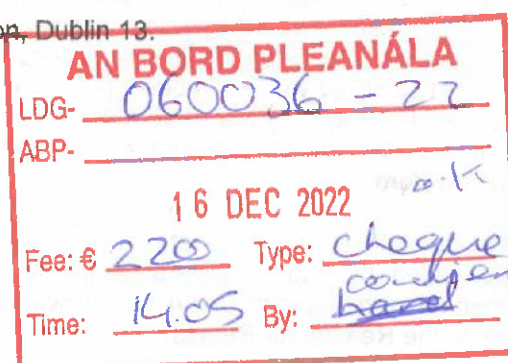
Reviewing the Section 5 Application, the council determined that;

Schedule 1

1. The works comprising of a garden room are development and are exempt development under the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001, as amended.

Schedule 2

1. The works comprising of the provision of the extension is development and is considered not to be exempted development under the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001 by reason of its location in the side garden and the development



does not relate to the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Accordingly it appears the reason for determining that the proposed single-storey extension IS NOT exempted development is by virtue of the fact that the Local Authority have determined the location of the proposed development to be in the side garden of the house, rather than the rear garden of the house.

We strongly disagree with this assertion and also believe it directly contradicts previous assessments of the site, both by the Local Authority and by An Bord Pleanala, both of whom appear to have previously viewed the location of the proposed extension as being the rear garden, which, if being the case, would make the proposed development exempted development, in our opinion.

Structure of Appeal

We assume An Bord Pleanala will have full access to the Section 5 application documents and drawings, and the Local Authorities decision so do not propose to re-state the extensive rationale for the proposals as set out in the Application. Accordingly, the content of this appeal is structured as a response to the central plank of the rationale for the determination by the Local Authority that the proposed development is not Exempted Development solely by virtue of it being positioned in the side garden of the house. We will provide examples of numerous statements by the Local Authority where they clearly imply that what they now consider the side garden, they previously considered the rear garden. We will also provide examples of the same conclusion drawn by An Bord Pleanala.

The entire rationale for the Request for Declaration under Section 5 was informed by previous guidance in this regard provided by both the Local Authority and by An Bord Pleanala. Accordingly our response is supplemented with relevant (previously-provided) drawings where appropriate, and followed by our final response to the Reason for Refusal.

Previous Comments from Local Authority

Fingal County Council Pre-Application Consultation Report Form (copy attached)

Date: 28th April 2021

Proposal: Demolition of existing dwelling and construction of a new house.

Feedback on Proposal:

"The wide front elevation together with the southern curved wall and vertical projection which exceeds the roof level on the front elevation (and parapet of adjacent dwellings) contribute to the dwelling appearing dominant and overbearing".

"It is considered that the contemporary approach is acceptable however consideration should be given to a more subtle approach, reduced scale and mass with less design features on the front elevation to avoid a busy façade and contrasting elements".

Accordingly, given the above, it is clear that from our initial interactions with the Local Authority, it was their opinion that the front of the house is the west-facing façade oriented towards Strand Road. This would make the rear of the house the east-facing elevation (where our Section 5 application proposes the single-storey extension). We have appended relevant extracts from the pre-planning drawings to this appeal for reference.

Planning Officers Report on Planning Application Reg. Ref: F21A/0374)

Date: 13th August 2021

Proposal: Demolition of existing dwelling and construction of a new house.

Reg. Ref: F21A/0374

"The application property, St. Fintan's, is located on Strand Road, Sutton, Dublin 13."

This confirms the address of the property, and that it is located on Strand Road, as opposed to St. Fintan's Road (for clarity). The Eircode for the property, according to the Department of the Environment, Climate & Communications, is D13HR74, the geographic address is "Saint Fintan's, Sutton Strand, Sutton, Dublin 13" and the postal address is "Saint Fintan's, Sutton Strand, Sutton, Co. Dublin", so the above would all serve to confirm that the house is officially considered to be on Strand Road. Whether or not this is even material to the issue however it remains that this is the case.

*"The application property is a two storey **gable fronted** dwelling on a site with a stated area of c. 1.049 hectares."*

The gable-fronted elevation faces Strand Road, the eaves-fronted elevation faces St. Fintan's Road. Accordingly the opposite gable to the front must be the rear, which is the same elevation from which we proposed to extend the dwelling as part of the Section 5 application. Accordingly if one gable is the front, the opposite must be the rear.

*"The single storey projection off the **rear** elevation is stated to be c. 12.4m in depth".*

This proposed elevation was effectively oriented in the same direction as the elevation from which we now propose to build a new exempted development extension, as applied for as part of our Section 5 application. However when assessing the Section 5 application, what was clearly referred to by the Local Authority to be the rear elevation is now effectively considered by them to be the side elevation.

*"A feature chimney is proposed to the **front** elevation".*

Again, this elevation replaces the existing "gable-fronted" elevation referred to above. Again, this would make the opposite elevation the rear elevation.

*"The dwelling proposes a wide **frontage**...."*

The frontage here refers to the Strand Road elevation of the proposed replacement dwelling, which effectively replaces the existing "gable-fronted" elevation.

*"The planning officer notes that upon review of the initial design, the proposed chimney feature on the **front** elevation was of concern in addition to the mix of finishes to be used however both elements have since been rationalised. This chimney feature now provides an appropriate break in the **front** elevation to ensure the overall mass does not appear dominant".*

Again, all these comments refer to a proposed front elevation which would have replaced the existing "gable-fronted" elevation referred to above. Again, this would make the opposite elevation the rear elevation.

*"While the application site is large, it does have an unbalanced proportion to the **front**, the existing dwelling is set at an angle behind the building line of the adjacent dwellings and in its original form appears ill-placed".*

This comment specifically describes the site when viewed from Strand Road and refers to that elevation as the "front". Again, this would make the opposite elevation the rear, not the side.

*"The proposed dwelling would be sufficiently set off the **rear** boundary to accommodate the windows at first floor level without giving rise to undue over-looking".*

As with the other point regarding mention of the rear elevation above, this elevation was proposed to replace the existing east-facing elevation on the existing dwelling, where the distance from the shared boundary with Old Quay House to the east was deemed adequate to avoid over-looking. Again, this is the elevation from which it is proposed under our Section 5 application to build an exempted development extension.

*"The terrace proposed to the **front** elevation at first floor level would not give rise to undue impact".*

Again, as with the numerous examples cited above, the Local Authority clearly were of the opinion that the elevation (of the existing, or proposed replacement) house which faced Strand Road was the "front" and accordingly, the opposite elevation would be the "rear", from which our Section 5 application proposes to build an exempted development extension.

Previous Comments from An Bord Pleanála

An Bord Pleanála Inspectors Report

Date: 3rd July 2022

Proposal: Demolition of existing dwelling and construction of a new house.

Reg. Ref: F21A/0374

ABP Ref: 312490-22

*"There is a balcony at first floor to the **front** of the dwelling".*

*"A first floor terrace with external stairs has been provided to the **front** of the proposed dwelling house".*

Both of the above comments from the An Bord Pleanála inspector refer to the proposed replacement dwelling, for which planning permission was refused. In both instances, the balcony and the terrace referred to (which are the same space) are on the western, Strand-Road facing elevation of the proposed dwelling, making the opposite elevation the "rear" of the dwelling.

Accordingly it seems that it was clearly established and concurred by all parties (applicants, Local Authority, An Bord Pleanála) that the "front" of the dwelling faces west towards Strand Road, the "side" therefore of the dwelling (which houses the entrance doors of both existing and proposed dwellings) faces south towards St. Fintan's Road, and the "rear" of the dwelling faces east towards Old Quay House, and this is the elevation off which we propose to construct a single-storey extension which we believe to be exempted development by virtue of it being in the "rear" garden, rather than the "side" garden.

Comments on reason for determination by Local Authority that the proposed extension is not Exempted Development.

It will hopefully be clear from the numerous extracts from Local Authority documents above, that they clearly were of the opinion that the Strand Road facing elevation was the front elevation, whereas when assessing the Section 5 application as submitted, they have changed their opinion to a belief that the St. Fintan's Road facing elevation is the front elevation.

We cannot understand how this change in opinion can be justified, or stood over. Architecturally it seems abundantly clear that the front elevation – the elevation designed to face the public realm and towards which visitors to the house would approach the building – is the Strand Road facing elevation. The house was originally built in the side garden of the adjacent "Stonehaven" (Protected Structure) in the mid-20th century. The house would appear to have been set back from Stonehaven and angled slightly to reflect the slow bend on the road in front as Strand Road becomes St. Fintan's Road. The position of the entrance gate piers forms an almost exactly-parallel line with the Strand Road façade of the house, reinforcing the sense that the Strand Road elevation is the front elevation. The entrance door is accessed via a covered porch which runs along the side elevation bringing the visitor to the entrance. If the southern elevation (facing St. Fintan's Road) was the "front" elevation, the length of this porch would make no architectural sense. Additionally the arches which run along the side of this open porch spring from 4 columns. One of these columns blocks the front door when viewed from St. Fintan's Road. If this was the front elevation, the piers would have been positioned to allow one of the arches *frame* the entrance door, rather than block it.

The adjacent Carrickbrack housing estate, built in the 1960's, comprises a number of roads. One of these, Carrickbrack Heath, consists essentially entirely of pitched roof bungalows where the gable faces the road and the entrance door is along the long eaves-fronted elevation, to the side. There can be no argument that any of these houses have their side elevation facing the street, simply by virtue of the fact that their "front" door is on the side. The same rationale surely applies to St. Fintan's.

I trust the above and attached information is to your satisfaction, however, should you require any further clarification on any matter noted please do not hesitate to contact me.

Regards,

A handwritten signature in dark ink, appearing to read 'G. Brennan', written in a cursive style.

Gareth Brennan B.Arch., MRIAI

Partner

BRENNAN | FURLONG

ARCHITECTS & URBAN PLANNERS

