



## **SITE LOCATION AND DESCRIPTION.**

The site is located on the east side of Sandy Lane Rush. Sandy Lane is a narrow Road with no footpaths, running north/south from the centre of the town towards the sea shore. The area is one of small plots of intensive horticultural uses interspersed with individual houses. The subject site is situated between existing detached houses and is in a derelict state .In the front of the site there are the derelict remains of a dwelling, reportedly destroyed by fire some years ago. This house was built right up to the edge of the laneway. There is also a derelict corrugated iron roofed shed on the site. The remainder of the site is overgrown and unsightly.

The site has a stated area of 400 square metres. The frontage width is 17 metres approximately, and the site depth is about 28 metres.

## **PROPOSED DEVELOPMENT.**

It is proposed to demolish the derelict dwelling and derelict shed and to erect a dormer bungalow on the site. The proposed dwelling will have a gross floor area of 191 square metres. The front wall will be set back 8 metres from the road boundary in line with the houses on either side. Foul drainage will go to the public sewer in the adjoining roadway. The roof ridge will run parallel to the road frontage and the dormer windows will face to front and rear. Internally, the dwelling will have an entrance hall, lounge, livingroom, kitchen/dining room, toilet and utility room at ground floor level. Upstairs there are four bedrooms and a bathroom.

## **PLANNING AUTHORITY DECISION.**

Fingal County Council, by order dated 21<sup>st</sup> October 2005, made a decision to Refuse Permission. The following reason was stated:

“The proposed development is located in an area of the County where the zoning objective is ‘RB’, ‘to provide for and facilitate the provision of agri-business uses’. This zoning objective provides a specific framework for agri-business, providing locations for business that are directly related to the agricultural or horticultural sector. Within these areas a residential use is a use that is ‘not permitted’. The proposed development therefore materially contravenes the zoning objective for the area and would be contrary to the proper planning and development of the area.”

Public foul and surface water drainage facilities are available in the roadway as is a public water supply. The Councils services departments have no objection to the proposal.

## **PLANNING HISTORY.**

There is no record of previous planning history relating to this site.

## **DEVELOPMENT PLAN.**

The site is located in an area zoned 'RB' – “to provide for and facilitate the provision of agri-business uses” in the Fingal Development Plan 2005-5011. The related 'vision' states:-

*This zoning objective provides a specific framework for agri-business, providing for business that are directly related to the agricultural or horticultural sector involving either the processing of produce of which a significant portion is sourced locally or support services for the agricultural or horticultural sector. It recognises the demands and location needs of these types of business and by allocating specific zoning objective and location, seeks to protect the competitiveness and efficiency in the agricultural and horticultural sector, without damaging the landscape character of the area they are located in. (p.97)*

The Development Strategy for Rush states :-

*The development strategy for Rush is the consolidation of the town and its existing urban form, the preservation of its distinct character, retention of its market gardening tradition, the development of its commercial/retail service function, the retention and enhancement of amenities and the integration of undeveloped zoned lands within well defined town boundaries. . . . (p.168)*

Development Objective Rush 1 states:-

*To facilitate the development of Rush as a vibrant village community and to retain its market gardening tradition. (p.168)*

## **APPEAL**

The planning consultant for the appellant has submitted grounds of appeal. These may be summarised as follows:

- The applicants have lived in Rush all their lives and are involved in the community. The derelict cottage on the site was burnt 5 years ago. The site is overgrown and neglected.
- The site is fully serviced for residential development.
- The pattern of development in the immediate area is residential. The proposal is essentially on an infill site.
- The current zoning does not reflect the previous use of the site.
- The zoning in the previous development Plan was for residential use.
- The design is in harmony with the existing dwellings that surround it.
- As an infill development it meets the criteria for such development, in relation to amenities, privacy, and the established character of the area. There are existing dwellings on either side of the site.
- The site is not large enough to accommodate 'agri-business' uses. As such residential use would be more appropriate on this site.
- The proposal accords with the proper planning and development of the area, the neighbouring residents are supportive.
- The proposal would eliminate a derelict building and remove the hazard of vermin.

- There are no objections from adjoining properties and no objections from other departments of the Council.
- The use of the site for agricultural or horticultural use would impact negatively on the adjoining residential dwellings and would not create a viable enterprise on such a small piece of land.

Reference is also made to four specific planning permissions for houses on Sandy Lane granted in recent years. Also submitted with the appeal were letters of support from three neighbours, two T.Ds. and one Councillor, together with an extract from the current Fingal County Development Plan 2005-2011

The appellants have requested An Bord to grant permission notwithstanding the fact that the Planning Authority consider that the proposal constitutes a Material Contravention of the Development Plan. Section 37(2)(a) of the Act is referred to and quoted.

### **RESPONSE TO GROUNDS OF APPEAL.**

The Planning Authority responded, stating that it did not consider that the grounds of appeal raised any new matter which would justify a change of attitude to the proposed development.

### **ASSESSMENT.**

The critical issue in this case relates to the question of ‘Material Contravention’ of the Development Plan.

The Planning Authority has stated that the proposal is a Material Contravention of the Development Plan. Section 37(2) of the Planning and Development Act 2000 sets out the position of An Bord in this regard.

I am of the opinion that this proposal is a contravention of the Development Plan but not a ‘Material’ contravention, for the following reasons:

- The construction of a dwelling on this restricted site would not hinder or obstruct the stated purpose of the zoning objective –‘to provide for and to facilitate the provision of agri-business uses’, or the Development Strategy for Rush
- The previous use of the site was residential.
- The site is too small (400 square metres) and too confined to be capable of agri-business use.
- An agri-business or horticultural activity on this restricted site would impact negatively on the residential amenities of adjoining dwellings
- The site is on the edge of the ‘RB’ zoning and abuts the ‘RS’ Residential Zoning (to provide for residential development and to protect and improve residential amenity).
- The site has existing houses on both sides of it.

- The site is derelict and development would greatly improve the visual amenity of the immediate area and improve the amenities for the adjoining residents
- .The proposal would fit well into the site and thus complete the infill along that residential side of Sandy Lane.
- The character of the area is one of single dwellings interspersed with small holdings of intensive agri-business and horticultural uses.
- The proposal complies with all relevant standards for residential development.

## CONCLUSIONS AND RECOMMENDATIONS

Having regard to the location of the site in relation to the zoning objectives and the development strategy for the Rush area, and the residential infill nature of the proposal on a restricted site, unsuitable for viable agri-business or horticultural use, it is considered that the erection of a dormer bungalow on this site does not constitute a Material Contravention of the Fingal Development Plan 2005 – 2011. The use of the site for residential development would not obstruct or lessen the impact of the specific zoning objectives for the area, and as such would be in accordance with the proper planning and development of the area.

I recommend that permission be granted subject to the following.

## REASONS AND CONSIDERATIONS.

Having regard to the location of the site and the surrounding pattern of development in the vicinity, it is considered that the proposed development would not be seriously injure the amenities of the area or the properties in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS.

- 1 The house shall be occupied as a single unit.

**Reason:** In the interest of the proper planning and development of the area.

- 2 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

- 3 Prior to commencement of development, details of the materials, colours and textures of all external finishes to the proposed house shall be submitted to the planning authority for agreement.

**Reason :** In the interest of orderly development and the visual amenity of the area

- 4 Details of the front boundary treatment, including height, materials and finish, access details, and car parking requirements shall be agreed with the planning authority before development takes place on the site.

**Reason:** In the interest of residential amenity.

- 5 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. 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 the Board to determine the proper application of the terms of the Scheme
- 6 **Reason :** It is a requirement of the Planning and Development Act 2000 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..

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Enda P. Conway.  
Inspector.

21<sup>st</sup> February 2006.