



Development

The Construction of a new detached dwelling, part two storey and part single storey. New Vehicular entrance opening onto South Shore Road. All associated site, boundary treatments, bin stores, services, soakways, landscaping and ancillary services.

Location

South Shore Road, Rush, Co. Dublin.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F19A/0265.

Applicant(s)

Graeme Price.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party

Appellant(s)

Graeme Price.

Observer(s)

1. Christopher & Jean Daly.
2. Emma Louise Daly Crane & Mark Crane.

3. Jennifer Kane & Darren McCormack.
4. Graham & Ciara Kirk.
5. Eva Butterly.

Date of Site Inspection

14th March 2020.

Inspector

Dáire McDevitt.

1.0 Site Location and Description

- 1.1.** The site is located on the southern side of South Shore Road, to the south of Rush town centre. Opposite the entrance to the site is Rogerstown Park, a small residential scheme of dormer style houses. Rush Golf Course is to the east. The immediate vicinity is character by a mix of house types, ranging from modest cottages (some of which have been modified and extended), two storey, dormer styles. Ranging from traditional to contemporary designs.
- 1.2.** The application site has a stated area of c. 0.1183 hectares, is rectangular in shape with access via a narrow parcel of land that links the main body of the site to the South Shore Road. Access is proposed via a c. 52.2m long driveway. The site proposed for development is currently cleared, some building waste was observed (pipes, etc). Boundaries with houses to the north, some of which are under construction, are currently undefined on the ground. A number of the observers are associated with these houses which were granted on foot of 2018 planning applications.

2.0 Proposed Development

- 2.1** The Construction of a c.266 sq.m part two storey and part single storey contemporary style detached dwelling.

New Vehicular entrance opening onto South Shore Road. All associated site, boundary treatments, bin stores, services, soakways, landscaping and ancillary services.

2.2 Further Information Submission (25th September 2019).

This addressed the items included in the Further Information request. Points of note include:

- Revised plans and particulars indication a reduction of c. 0.5m in the height of the proposed dwelling.

- Revised landscaping proposal

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following 2 reasons:

- 1. The Planning Authority considers that it has not been adequately demonstrated that the proposed two storey dwelling on this backland site would not have an overbearing negative impact on adjoining dwellings. The proposed two storey development on this restricted backland site would seriously injure the amenities and depreciate the value of property in the vicinity.*
- 2. The proposed development would result in overdevelopment of a restricted site which would set an undesirable precedent for other similar developments within the area, which would in themselves and cumulatively, be harmful to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Report

Following the submission of further information the planners recommendation formed the basis for the Planning Authority decision.

Issues raised in the further information related to 1) the size and scale of the proposed dwelling and the overbearing impact on adjoining dwellings, 2) screening of the site to reduce the impact. The response submitted did not address outstanding concerns to the satisfaction of the area planner and a recommendation to refuse permission issued on the basis that the proposed dwelling by virtue of its design and scale on a restricted backland location would set an undesirable precedent for future development in this rural area.

3.2.2. Other Technical Reports

Transportation Planning Section: No objection subject to conditions.

Water Services Section: No objection subject to conditions.

3.3 Prescribed Bodies

Irish Water: No objection subject to conditions.

3.4 Submissions:

Submissions by the current observers were made at application stage. The issues raised are broadly in line with the observations received and shall be dealt with in more detail in the relevant section of this report.

4.0 Planning History

None for subject site.

Adjoining Sites:

F18A.0654 refers to a grant of permission to Chris Daly for a single storey detached house.

F18A/0564 refers to a grant of permission to Emma Louise Daly for a detached part two storey part storey and a half dwelling.

F18A/0330 refers to a grant of permission to Daniel Shanahan for a detached two storey dwelling.

F18A/0078 refers to a grant of permission to J. Kane & D. McCormack for renovation and extension of St Augustans.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

National Policy **Objective 19** refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing

in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Sustainable Rural Housing Guidelines, DoEH&LG 2005.

The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural typologies are identified including ‘stronger rural areas’ which are defined as those with generally stable population levels within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.

Examples are given to the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

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

The RSES including the **Dublin Metropolitan Area Strategic Plan (MASP)** was adopted on the 3rd of May 2019.

Contains a strategic plan and investment framework to shape the development of the region.

5.4 Fingal County Development Plan 2017-2023

The site is located outside the Rush development boundary, in an area zoned objective ‘**RU**’ which seeks ‘Protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage’.

The site is also within the designated ‘Highly Sensitive Landscape’ area indicated on the Green Infrastructure Map associated with the Development Plan.

Local Objective 24 'ensure that any new residential development in the South Shore, indicated on the map by a boundary line, is in compliance with the specific housing policy relevant to the South Shore Area'.

These are set out in the Rural Settlement Strategy' which contains **Objective FR43 to 48 inclusive** which as applied to the **South Shore Area of Rush** allows for applicants who may have been resident within the South Shore Area of Rush or within the confines of the Rush development boundary for a minimum of 10 years to be considered for a dwelling within the rural zoned areas of the South Shore. Other criteria include that the subject site is not subject to flooding or erosion and that the proposed dwelling will not adversely affect the ecological integrity of any Natura 2000 site (**Objective RF46 and RF47**)

Objective

Relevant Development Management Standards include:

Objective NH39 refers to the necessary requirements, including visual impact assessment, to be prepared prior to approving development in sensitive areas.

Section 12.6 sets out the Design Criteria for Housing in the Countryside.

Objective DMS49 Ensure that new dwellings in the rural area are sensitively sited, demonstrate consistency with the immediate Landscape Character Type, and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design. A full analysis/feasibility study of the proposed site and of the impact of the proposed house on the surrounding landscape will be required in support of applications for planning permission.

Objective DMS52 Ensure that the design and siting of any new house conforms to the principles of Design Guidelines for Rural Dwellings as outlined in Table 12.4.

Section 12.4 sets out Design Criteria for Residential Development

Objective DMS39 refers to infill development should respect the height and massing of existing residential units and that it should retain the character of the area, including features such as walls, pillars, etc.

Objective RF58 sets out that new dwellings in the rural area are sensitively sited, demonstrate consistency with the immediate Landscape Character Type, and

make best use of the natural landscape for a sustainable, carbon efficient and sensitive design. A full analysis/feasibility study of the proposed site and of the impact of the proposed house on the surrounding landscape will be required in support of applications for planning permission.

Objective RF59 requires that the design of new dwellings have regard to the Development Management Standards Chapter with specific reference to the following:

(a) Encourage new dwelling house design that is sensitively sited, demonstrates consistency with the immediate Landscape Character Type, respects the character, pattern and tradition of existing places, materials and built forms.

(b) Protect existing trees, hedgerows, townland boundaries and watercourses which are of amenity, historic or biodiversity value and ensure that proper provision is made for their protection and management in future development proposals.

(c) Promote sustainable approaches to dwelling house design and encourage proposals to be energy and carbon efficient in their design and layout.

(d) Require appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.

5.5 Natural Heritage Designations

The site is located 0.2km to the north-east of the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208).

5.6 Environmental Impact Assessment - Preliminary Examination

Having regard to the nature of the proposed development, 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 first party appeal seeks to address the planning authority's two reasons for refusal and is summarised as follows:

The proposed development complies with all the relevant standards and requirements set out in the current Fingal Development Plan.

6.1.1 Reason No. 1:

- There is precedent in the area for similar developments, in terms of context and scale. Reference to F15A/0354, F15A/0359 and F16A/0513
- The proposed dwelling will not be visible from the main South Shore Road due to the design and layout together with its backland location.
- The dwelling is in keeping with the scale of adjoining dwellings.

- It is well set back from all boundary walls at first floor. The GF closest point is the sitting area (southeast) at c. 4m from the boundary wall. At FF level the closest point will be the northwest (bedroom) at c. 4.6m. At FF to the southeast wall, the set back is c.7m.
- There is c. 32m between first floor windows and the property to the north west.
- The dwelling has been design to avoid potential of overlooking as much as possible.
- The site has adequate capacity to accommodate the proposed house without causing a detrimental impact on adjoining properties.
- Opaque windows proposed where required.

6.1.2 Reason No. 2:

- There is a precedent in the area for this pattern of development. Therefore the current proposal would not set a precedent.
- It make appropriate use of an underutilised serviceable site in close proximity to Rush town centre in accordance with national policy.

6.1.3 Other:

- 45m sightlines achieved at the entrance off South Shore Road.
- A FRA carried out and submitted. Adequate FFL proposed.
- The drawings submitted are accurate and dispute the planning authority's comments in this regard.

6.2 Planning Authority Response

The PA note that they have no further comment to make on the proposed development and refer to the original planners report. Request a Section 48 Financial contribution be attached in the event of a grant of permission.

Planning Enforcement file noted in relation to adjoining site.

6.3 Observations

Five observations have been received.

Observations against the development:

Jennifer Kane & Darren McCormack note that they had no objection to an appropriate house, preferably single storey, on the application site. However:

- The current proposal is out of context with the adjoining houses, built and under construction.
- The height of the proposed dwelling will be overbearing when viewed from adjoining properties.
- Too many large windows, the proposed landscaping does not address overlooking of adjoining properties.
- Depreciate the value of adjoining dwellings.

Emma Louise Daly Crane & Mark Crane raised concerns that:

- The proposal would have an overbearing and detrimental impact on their privacy and garden/amenity space.
- It is not in keeping with permitted backland developments in the area. File reference submitted with the appeal of precedent are put forwards as examples.
- The proposed development is no in keeping with the character, scale, height or coastal character of the area.
- Adjoining houses range from c. 147 to c. 237sq.m, the proposed development is c. 283sq.m which is not in keeping with the scale of the area. It does not comply with objective DMS39 and DMS40 which set out that infill sites shall respect the height and massing of existing residential developments.

- Excessively large windows result in overlooking that will have a negative impact on the privacy of their property.
- The dwelling would be visible from the road. It would be 1m higher than the observers house (F18A/0564) and 3m higher than that granted under F18A/0654.
- Query the photomontage submitted.
- Would set an undesirable precedent.
- Query the flood risk assessment.
- Eskdale is vacant, therefore there is no one to put in a submission.
- Query the turning area for vehicles within the site.

Christopher & Jean Daly (Cois Tra) note the following concerns:

- Height and scale will have an overbearing impact on their property which is a single storey dwelling.
- Two storey is not in keeping with the pattern of infill development in Rush.
- Issue with large windows, even with a screen added, and impact on their privacy. Landscaping does not address overlooking from first floor level.
- Welcome the development of the site but a more sympathetic design and scale of dwelling would be appropriate.

Observations in Support:

Graham & Ciara Kirk note that they reside in the original Kirk family home that has been here for 34 years and support the proposed development, welcome the rejuvenation of what was formerly wasteland and note that the current proposal is not really different from the new properties that have been granted here which are a mix of contemporary and traditional designs.

Eva Butterly welcomes the proposed development and consider the contemporary design appropriate and respectful of the area and the immediate surrounds.

7.0 Assessment

The main issues in this appeal are those raised by the first party in the grounds of appeal which seek to address the planning authority's decision to refuse permission and I am satisfied that no other substantive issues arise. I note that there is a degree of overlap in the planning authority's reason for refusal and I propose to address them by issue rather than as two separate reasons for refusal. The issue of appropriate assessment also needs to be addressed. I have examined and noted the issues raised by the Observers.

The issues are as follows:

- Design and impact on adjoining properties.
- Overdevelopment of the site

7.1 Design & Impact on adjoining properties

7.1.1 The first reason for refusal by the Planning Authority stems from the capacity of the restricted backland site to accommodate a two storey dwelling without having an overbearing impact on the amenities of adjoining properties and the depreciation of same.

7.1.2 Permission is sought for a c.266 sq.m two storey contemporary style house with a maximum ridge height of c.7.7m. The application site has a stated area of c. 0.1183 hectares. The set back of the house from the site boundaries with the rear gardens of adjoining properties ranges from c.4m to c.9.2m. The dimensions are taken from the plans as at present boundaries are not set erected/in place. The immediate area is characterised by an eclectic mix of house types, designs and scales, ranging from modest cottages to contemporary style part two/part storey and a half dwelling. I have no objection to the proposed design of the dwelling, however in this instance I do not consider that the application is suitable for the proposed development. And while I recognise that the area has an eclectic mix of house type, scales and styles. In my view the proposed height and scale of the proposal and its siting,

to the rear of recently developed plots, would jar with the existing pattern of development and result in a discordant overbearing feature.

- 7.1.3 The development of backland sites should be carried out in a comprehensive logical manner. The subject site is centrally located to the rear of a number of recently constructed and houses under construction on foot of 2018 planning applications with boundaries yet to be constructed. Access to the site, which is left over land from what appears to be the subdivision of a larger tract of land which may have facilitated the developments with road frontage along the South Shore Road to the front of the site, is accessed via a narrow track. The Development Plan supports backland development and generally encourages use of underutilised sites in existing residential areas. In this instance the site is located within the South Shore Area which has a number of constraints in terms of suitable development. In my opinion the development of the application site would constitute a substandard piecemeal backland development that would be incongruous and at variance with the predominant pattern of development in the area.
- 7.1.4 Furthermore the location of the site to the rear of existing houses results in a means of access off the public road via a c.52.2m long driveway/lane proposed between two houses. I have concerns that the provision of this access would detract from the residential amenities of the existing houses by means of nuisance created by vehicles using this access and the excessive length of the proposed access lane/driveway.
- 7.1.5 On balance having regard to the access arrangements associated with the site and its relationship to adjoining properties, the proposed development represents inappropriate backland piecemeal development, and would seriously injure the amenities of adjoining residential properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 7.1.6 It is commonly understood that overlooking between properties does not usually occur at ground floor level. This is because in most urban cases a two metre solid boundary from the front building line back, either a wall or fence, is

erected to screen views and in rural areas landscaping along site boundaries is conditioned to screen sites. In this instance, I am satisfied that appropriate landscaping and mitigation by design would address this issue.

7.1.7 With regard to the depreciation of adjoining properties, I note that there is no evidence on file to support this assertion.

7.2 Overdevelopment of the site.

7.2.1 The Planning Authority refused permission on the premise that the proposed development would constitute overdevelopment of a restricted backland site and would detract from the visual and residential amenities of the area. I have addressed the impact of the proposed development on adjoining properties in section 7.1 above.

7.2.2 The proposed development broadly complies with the requirements set out in the current Fingal Development Plan and national guidance in relation to private amenity space, separation distances, services, etc. I am satisfied that the development will not result in the overdevelopment of the site.

7.2.3 The Planning Authority noted also in the second reason for refusal that the proposal, if permitted, would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the amenities of the area and would be contrary to the proper planning and sustainable development of the area. In this regard I note that each application is assessed on its own merits and I do not consider that the issue of precedent arises in this instance.

7.3 Appropriate Assessment

7.3.1 The site is located 0.2km to the north-east of the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208). The proposed development will connect to the existing foul sewer network and surface water on-site will be discharged via a proposed soakaway. The finished floor level of the house has been design to take account of existing and future flood risk at the site.

- 7.3.2 An Appropriate Assessment Screening Report submitted with the application concluded that stage 2 AA was not required. The Screening carried out by the Planning Authority in the planner's report concurred with this conclusion.
- 7.3.3 Having regard to the nature and scale of the proposed development, proposed connection to existing services, the lack of direct or indirect links to the nearest designated site. No Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 7.3.4 It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208) a stage 2 appropriate assessment (submission of an NIS) is not therefore required.

8.0 Recommendation

It is recommended that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the limited access arrangements associated with the site and its relationship to adjoining properties, it is considered that the proposed development represents inappropriate piecemeal backland development, and would seriously injure the amenities of adjoining residential property. It would be incongruous and at variance with the predominant pattern of development in the area. The proposed development would, therefore, detract from the existing pattern of development in the area and be contrary to the provisions of the Fingal Development Plan 2017-2023. The proposed development

would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development by virtue of its height, mass and scale would be overly dominant and visually incongruous and would be at variance with the predominant pattern of development in the area. The proposed development would, therefore, detract from the existing pattern of development in the area and be contrary to objective DMS39 of the Fingal County Development Plan 2017-2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Dáire McDevitt
Planning Inspector

15th March 2020