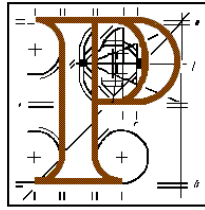


An Bord Pleanála



Inspector's Report

PL06D.246253

DEVELOPMENT:- 11 no. dwellinghouse, vehicular and pedestrian entrance off Old Rathmichael Road, all associated site works, boundary treatments, landscaping and signage at Old Rathmichael, Dublin 18.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council
Planning Authority Reg. No.: D15A/0779
Applicant: Shane McCambridge and Gregory McCambridge
Application Type: Permission
Planning Authority Decision: Refuse Permission

APPEAL

Appellant: Shane McCambridge and Gregory McCambridge
Type of Appeal: First v Refusal
Observers: Aidan and Sheila O'Sullivan and others

DATE OF SITE INSPECTION : 9th June 2016

INSPECTOR: Mairead Kenny

1.0 SITE LOCATION AND DESCRIPTION

The site is one of a number of residential sites laid out around a private road and in a cul de sac known as Old Rathmichael. This area lies at the foothills of the Dublin Mountains and a few kilometres to the south-west of the junction of the M50 and M11. The area between the site and the M50 contains a large amount of low density detached dwellinghouses.

The residential area of Old Rathmichael is clustered around a private road, which is atypical in terms of its layout and street furniture, being for example devoid of formal footpaths and displaying a range of treatments of roadside verges and boundary features. The houses are on very large plots and for the most part the sites have been developed to contain substantial, well designed houses, which appear to be of high specification and detail. In the main the houses are secluded behind boundary walls and gates and are not highly visible from the roadside. On either side of the site are large detached houses set in spacious sites.

The subject site is taken from a larger holding of stated area of 13.5 hectares which extends to a public road known as Puck's Castle Lane from which the views are protected. At the time of inspection dense fog conditions prevailed and views were limited. From the upper part of the land holding however, the low density nature of the residential development was evident.

The site is of stated area of 1.12 hectares and is located in the upper half of the cul de sac. The roadside boundary is marked with a timber post and rail fence and the site is presently very overgrown, to the extent that I was unable to gain access. The western edge of the site incorporates a grass lane which leads to a water reservoir to the rear, which is outside the site but within the applicant's holding. The site level varies from about 77mOD at the roadside to over 90m at the rear and the overall holding rises further to the rear. The site is not otherwise remarkable except in terms of its overgrown nature and it contains few trees of any significance.

Photographs of the site and surrounding area, which were taken by me at the time of my inspection are attached.

2.0 PROPOSED DEVELOPMENT

Permission is sought for a development comprising:

- a scheme of 11 no. dwellinghouses set around a road and open space
- the houses are 9 no. large detached houses and 2 no. semi-detached
- detached houses exceed 232 square metres in floor area and semi-detached are 128 square metres
- site landscaping details show that almost all rear gardens are terraced
- facility is made for a footpath along the site boundary

- surface water disposal is to be to the sewer at the opposite side of the private estate road
- foul sewerage is to be provided by way of a new sewer along the estate road and connecting to an existing foul sewer at Ballybride Manor
- the proposal also involves site landscaping, signage, boundary fences, ancillary works.

3.0 PLANNING HISTORY

There is reference in the submissions on file to an application under Planning Reg. Ref. D15A/0403. There is a live appeal related to that site, Shankill House, a protected structure at Ferndale Road – **PL06D. 246294**. That appeal is against the decision of the Planning Authority to refuse permission for a development of 50 no. dwellinghouses for 4 no. reasons related to:

- additional use of road by vulnerable road users – premature due to lack of adequate safe facilities
- because of the land shaping and loss of trees inappropriate design response
- sterilisation agreement in place
- site layout including extensive use of retaining walls results in substandard level of residential amenities for future occupants.

Regarding pre-application consultation advice related to this site under PAC/0536/14 the issues raised related to zoning, absence of mains drainage, absence of local area plan, unsustainable pattern of development, embargo on further wastewater treatment system in Crinken Catchment.

Planning Reg. Ref. D99A/004 is stated by the Planning Authority to be an application for two houses on the site. This was deemed to have been withdrawn.

Planning Reg. Ref. D95A/0723 relates to an application for three houses and wastewater treatment systems stated to be on the site and part of the high amenity lands – under an appeal PL06D.098484 permission was refused for reasons related to excess density, being out of character with the spaciousness, scale and separation of the development on adjoining sites and for reason of siting above the 300 foot contour.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Surface Water Drainage – further information required.

Transportation Planning – not in accordance with T1 and T2 – while permission granted in 2015 for 10 houses at Shankill House there was a previous permission and that site is within reasonable travel time to amenities and facilities and public transport

– the subject site is remote from facilities and public transport and in an area lacking footpaths - refusal recommended.

Irish Water – two reports – further information required in relation to water supply (conditions also set out in the event that permission is granted) - refusal recommended regarding foul drainage.

Parks and Landscaping – further information required including comprehensive tree survey and design proposals.

Housing – capable of complying with requirements of Part V - no objection subject to condition.

4.2 Planning Authority Decision

The Planning Authority decided to refuse permission for reasons summarised below:

- premature due to deficiencies in sewerage facilities in the area
- premature due to lack of local amenities, public transport and facilities which can be accessed by sustainable modes of transport – reliance on car travel contrary to T1 and T2 to support and promote sustainable modes of transport
- by itself or precedent would adversely affect use of road network in vicinity of Old Rathmichael
- in a transitional zone and subject to specific local objective 71 and within protected views from Puck’s Castle Lane to south and in a Landscape Character Area where maintenance of natural ambience is required – has not demonstrated will not have negative visual impact on the more sensitive ‘G’ zone or protected views contrary to sections 16.7.3 and 18.2 and SLO71 of plan.

5.0 GROUNDS OF APPEAL / OBSERVATIONS

5.1 Grounds of Appeal

The main points of the first party appeal are:

- the scheme is entirely contained within the ‘A’ zone under which residential use is permitted in principle
- the planning policy context is now the new local area objectives of Chapter 9 : Local area objectives Map 14
- these include no insensitive or large scale development above 90m contour from Old Connaught Golf Course to Puck’s Castle Lane
- the setback from Old Rathmichael Road will incorporate significant planting and screening which will soften the development – the area has significant mature planting and the houses are designed with consideration for topography and orientation of the site

- there will be a new mains foul drainage line constructed to connect with existing foul services 0.6km to north-east – Appendix B refers
- the transportation core strategy in the draft plan highlighted ‘Old Conna’ as an area for future development – this is 1km away
- the density of 9.8 per hectare is a sensible balance for the area
- construction of a footpath on Old Rathmichael is possible in the verge
- permission was recently granted under D15A/0403 at Shankill House 1km from the site and at similar distances to local amenities
- the Local Authority might consider constructing a new footpath – precedent of Ferndale Hill (image in section 10)
- 11 no. houses would not negatively impact on traffic conditions and on completion the estate would be privately managed
- a potential future extension to woodland tracks in Rathmichael Woods could be provided through the applicant’s holding to enhance amenities
- all development is below 90m contour in compliance with policy
- images from Puck’s Lane are shown and described and it is shown that there would be no impact on the protected view – pages 29-31 of the appeal and the section drawing refer
- Caragh Paving and Landscaping address the landscaping issues – direct overlooking can be dealt with by planting and use of obscure glass
- page 34 outlines in summary the reasons for a grant of permission
- the Board is request to grant permission, taking into account the suggested amendments if deemed necessary and appropriate.

Enclosed report of Molony Millar responds on the matter of overflows from the foul sewer onto private lands and gardens. It is stated that this is a priority for Irish Water. This deficiency should be rectified without delay. The impact of the development would amount only to 0.4% of the capacity at the public sewer. A grant of permission would result in a planning gain through the provision of foul drainage infrastructure in an area currently served by septic tanks. The proposals for surface water drainage can be revised and matters raised in relation to water supply can be addressed.

An enclosed report of Caragh Paving and Landscapes responds on a number of matters raised relating to the slope of gardens at units 6,7 and 8 and the amount of retainment on site in general. The existing Lombard poplar will not be impacted and a method statement for protection of that tree can be prepared.

Enclosed Architect’s Design Statement dated December 2015. The design is stated to address the productivity of the site while responding to the site and its conditions. It is stated to contribute to the suburban context of the area.

The exterior of the houses are designed to reflect a certain level of traditionalism and status while the interiors have a more usable modern capacity. Exploitation of sea views and hills features strongly in the design, leading to the incorporation of balconies.

5.2 Observations

An observation submitted on behalf of a number of residents states:

- the appeal submissions confirm lack of public transport and there are no medium term prospects of these deficiencies being addressed
- the appeal does not contain proposals to rectify the services deficiency
- Shankill House differs in terms of planning history, context and services
- Old Rathmichael is a private road – the applicants have not shown legal title to undertake the extensive foul drainage works or to construct footpaths
- Old Rathmichael's origins are in a permission for 13 houses on 1.5 acres – it provides an appropriate urban-rural transition – proposal is inconsistent in terms of character, pattern and scale – a more appropriate proposal would be for one or two dwellings not this suburban proposal that would be detrimental to character, pattern and scale of development in the area
- surface water drainage design is inadequate and improperly designed and will exacerbate existing flooding in Old Rathmichael
- the water supply is inadequate – the proposal involving supply from an existing water tank which has previously resulted in water shortages and low water pressure
- the location is remote and distant from social infrastructure
- there are various omissions in the drawings
- the gardens of some houses are compromised by the slope (units 6-8)
- no legal title - the scheme cannot access the public foul drainage network
- does not overcome the local authority refusal, which should be upheld.

Regarding submissions to the Planning Authority a comment from An Taisce refers – this notes that the development would create a precedent for relatively dense development.

Comments made by third parties to the Planning Authority are largely repeated in the observation submitted to the Board. It is also stated that an Environmental Impact Assessment is required.

6.0 RESPONSES

6.1 Planning Authority response

The Planning Authority notes the adoption of the 2016 plan and objective SLO126. There is no longer an objective to prepare a local area plan. The Shankill House site

differs as there was a previous permission and the site is within walking distance of facilities.

The Municipal Services notes the first party appeal submission which it is considered lacks commitment in general. The section considers that there is sufficient scope to provide a more comprehensive SUDS proposal. A condition is recommended if permission is granted.

Transportation Planning (page 4 and 5 of response) provide details in relation to distance to services and public transport.

In **further submissions** dated 24th May 2016 the Planning Authority:

- reiterates the comment that the site is not suitable for on-site treatment as an alternative to connection to the mains
- the lack of objection to the Shankill House proposal (Planning Reg. Ref. D15A/0168) by the Transportation section related to a previous permission on that site, which was granted at a time of less awareness of land use and transportation and sustainable travel – a subsequent permission on that site (Planning Reg. Ref. D15A/0809) was refused on transportation grounds
- using the NTA journey planner the travel times at normal walking speed to various designations for the Shankill and Old Rathmichael Sites are as given
- the Old Rathmichael site and the Shankill House sites are not equal in terms of their proximity to facilities / amenities and public transport networks in particular and walking times to LUAS, DART, QBC and schools are greater
- the pedestrian routes are along country roads without footpaths or verges and sections of pedestrian routes would not be considered to be safe at night or if walking alone
- residents would be reliant on travel by car
- there is no likelihood of footpaths being provided on Old Rathmichael or or connections to the surrounding footpath network
- the programme for delivery of the LUAS extension is unknown and cannot be considered in the context of the application
- the development is premature.

6.2 First party response to Planning Authority comments

- The applicant notes as follows:
- the appeal should be assessed under the policies in place at the time of making the application
- there is no change to the zoning objective
- the Shankill House site at which permission has been granted by DLRCC under D15A/0403 has walking times similar to the current site and the sites are equal in terms of their proximity to facilities / amenities and public transport the applicant on the site D15A/0779 has

indicated previously that a new footpath will be provided along the boundary of the new site and can tie in with the existing network and the proposed development will complete the cul de sac as a residential area

- the existing situation reflected in the traffic surveys which indicate that 85% of traffic is cars should be addressed by an extension of the footpath network along Ferndale Road and Old Rathmichael to accommodate existing residents
- the site is not comparable with Old Conna
- the proposed LUAS station would be 24 minutes on foot from the proposed development
- footpaths and other infrastructure are often put in place after development
- due to different departure times the development would not adversely affect the use of the road network in the area and the necessary upgrading works should be undertaken
- the enclosed report of Moloney Millar responds specifically on the matter of stormwater, which can be addressed through detailed design to the satisfaction of the Planning Authority
- items raised by Irish Water can be addressed
- the applicant owns the lands where the reservoir is located and the necessary wayleaves will be forthcoming
- adequate water supply including for firefighting can be put in place.

6.3 Irish Water

The proposed remains premature and issues associated with water supply need to be addressed.

7.0 POLICY CONTEXT

The site is governed by the provisions of the Dun Laoghaire –Rathdown County Development Plan 2016-2022.

Objective ST2 is to actively support integration of land use and transportation policies. Fundamental to the future land use planning in the county will be the consolidation of development into the appropriate areas that can be well served by sustainable modes of travel.

Under the core strategy Rathmichael / Ferndale is identified as having 85 hectares with a potential residential yield of 2,300 units. It shall be a central objective of the Core Strategy to expedite the full servicing of the presently unserviced lands in the southern part of the county, which have potential for about 8,000 homes.

Old Connaught-Woodbrook Water and Sewerage Schemes are critical to servicing the south of the county.

Table 1.3.1 refers to Local Area Plans and identifies nearby 'Old Conna' as a location for which a new plan is to be prepared when infrastructural constraints are to be overcome. There is no specific reference to the preparation of a local area plan for Shankill / Ferndale.

Map 14 and the associated specific local objectives refer to Rathmichael / Old Connaught. No insensitive or large scale development is permitted above the 90m contour at Rathmichael. On-site wastewater treatment prohibited until groundwater issues are resolved or ameliorated.

In relation to the specific location in which the site is located the zoning objective is 'to protect and / improve residential amenity' while the site abuts an area zoned 'to protect and improve high amenity areas'. The view from Puck's Castle Lane to the west is protected.

8.0 ASSESSMENT

I consider that the main issues in this appeal relate to:

- the principle of the development in terms of planning policy and sustainable travel
- drainage and water supply
- other matters related to services and policy
- Appropriate Assessment.

Planning policy, transport and traffic

The general thrust of the decision of the Planning Authority relates to the nature of the site context and in particular to the absence of an appropriate road and transport network to facilitate sustainable travel. It is a core objective of the current development plan, in line with national policies to ensure that land use and transportation integration achieves a situation whereby the use of sustainable modes of travel can be realised. As such the plan identifies nearby Old Conna as a possible future re-development area due to proximity to a planned Luas extension. On the other hand the absence of proposals for high quality public transport in the Rathmichael area taken in conjunction with the issue of deficiencies in wastewater treatment infrastructure (which affects the wider area) appears to have contributed to the decision not to identify Rathmichael as a re-development zone. On a related note I also refer to the omission under the current development plan of an objective to prepare a local area plan for Rathmichael / Ferndale¹. I also note in terms of the

¹ It was an objective under section 3.3.9 of the 2010-2016 DLRCDP to prepare a local area plan for Rathmichael / Ferndale Road during the lifetime of the plan in recognition of anticipated changes in mains drainage and water infrastructure and delivery of Luas B2.

strategic context that the site is not within the identified area of the Supplementary Scheme for Luas B2.

Having regard to all of the above and following my inspection of the site and surrounding area, I agree with the decision of the Planning Authority in relation to the nature of the site of the proposed development and consider that it is both remote from all necessary social and commercial infrastructure and from suitable public transport infrastructure. As such the development would fail to meet a core objective of national and local planning policies related to the encouragement of trips by sustainable travel modes.

The specifics of the site and context are set out in the appeal and in the submissions from the Transport Planning Section of DLRCC. The Transport Planning Section submission dispute the applicant's accounts of the distances to the nearest public transport stations. Even if the site is within 45 minutes on foot to the nearest Luas stop of 36 minutes by foot to the DART at Shankill, as the appellant states, these would not be deemed to be within reasonable walking distances. There is no high quality public transport available at present in the vicinity of the site and future occupants would be reliant on private car travel.

Apart from the distances involved in accessing public transport and social and commercial infrastructure, I consider that it is also appropriate that the Board have regard to the nature of the public roads, which includes long stretches of narrow roads which are largely devoid of footpaths makes cycling or walking an unsuitable travel mode. I note that the third stated reason of the decision of the Planning Authority to refuse permission relates to adversely affecting the use of the road network by traffic. I consider that having regard to the particularly narrow nature of the road network in the area, which appears to be relatively heavily trafficked, this reason cannot be dismissed.

The nature of the location of the site of the current appeal is such that it will predominantly generate travel by car. That fact is supported in the traffic surveys undertaken by DLRCC and in the first party submissions which refer to the favoured modes of travel in this wider area as including car and motorbike.

Regarding the identification of nearby lands for improved public transport and / or significant re-development, there are no timescales on such significant changes and there is no policy in the recently adopted development plan to prepare a local area plan for this area. In addition even if Luas Line B2 was in place the site would not be within accepted norms for reasonable walking distance.

I conclude that the development contravenes a core policy strategy of the DLRCDP and that it would result in a development which is not sustainable in terms of travel. I consider that the refusal of permission set out in the decision of the Planning Authority should be upheld.

Regarding Shankill House, which is referenced by the applicant the Board will note that there is another appeal at that site at present. It is required that the Board consider each case on its merits.

Drainage and water supply

Foul Drainage

Proposals for foul drainage and the deficiency of the existing infrastructure form the basis of the first reason for refusal given by the Planning Authority. Irish Water notes that the proposed connection is to a sewer which overflows into private gardens and property, that there are historical deficiencies in the catchment and that a solution is not identified in the application. As such the proposed is considered premature. In further correspondence to the Board Irish Water re-iterates that the proposal remains premature and that Irish Water is in receipt of a number of queries in the vicinity and that it is planned to prepare a Drainage Area Plan.

The first party appeal refers to the report of Molony Millar. While this comments on the matter of overflows from the foul sewer onto private lands and gardens and states that this is a priority for Irish Water, the applicant is obviously not in a position to provide proposals to address what is a matter of public infrastructure deficiency.

I note that the applicant states that the impact of the development would amount only to 0.4% of the capacity at the public sewer. That does not overcome or address the existing deficiency. It is a matter for the public authorities to decide on the investment priorities for any given area. I agree with the observer's comment that no new information sufficient to overcome the recommended reason for refusal is presented on this matter. I agree with the Planning Authority that a grant of permission would be premature and that permission should be refused for this reason.

Water supply and wayleave

I referred earlier to the presence of an access road to a water reservoir. This comprises a grassy laneway along the western boundary. I note also that there are a few small access gates from the adjacent house and garden onto the lands to the rear of the site, which are in the applicant's holding. The report of the Planning Authority states that the access is to Quarry Road reservoir. The report of Irish Water requests that details of new wayleaves for

a new rising main and a distribution pipe and other matters be supplied. I consider that potential interference with a right of way needs to be considered in this case. The matter is not raised in third party submissions or by the Planning Authority but I consider that there is a lack of clarity about the proposal, which appears to involve severance of an existing route to public infrastructure and no proposals for new wayleaves. In the event that permission is to be considered this matter should be first clarified.

Other matters

Regarding reason 4 given in the decision of the Planning Authority I note that the development is set below the 90m contour, as is required. Based on my inspection and on the photographs submitted with the appeal I consider that the development would not impede or significantly detract from the protected view. I am unconvinced that reason 4 is of substance. It appears to relate mainly to the lack of submission of a visual impact assessment. On a cumulative basis a development of this type would alter the immediate context of the view from Puck's Castle Lane which appears to be to the sea and over a wide landscape. The existing low density development in place does also appear to provide a good transition between the city and countryside. Overall, I do not consider that the development of this relatively small plot, which is significantly below the road level, would have a substantial negative effect in itself. Having regard to the more substantive matters in this appeal I do not recommend that reason 4 be upheld.

There are some deficiencies in the proposal relating to house design and landscaping including overlooking between the proposed houses and the slopes of private gardens. These matters are not fundamental to the decision in this case and could be addressed by way of a revised house layout if the Board was minded to grant permission.

Regarding the requirement for an Environmental Impact Assessment I consider that there are no grounds to warrant such assessment.

Appropriate Assessment

Having regard to lack of acceptable proposals for foul drainage, I consider on the basis of the limited available information regarding the nature of the receiving environment that the Board cannot be satisfied that no appropriate assessment issues arise. The Board may wish to address this either:

- (i) by way of a request for a Stage 1 (and, if necessary, a Stage 2) report prepared by an ecological consultant to assist the Board in its deliberations on this matter
- (ii) in its Direction on the case in the event that permission is refused.

9.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be refused for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

1. It is the policy of the Planning Authority as expressed under ST2 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 to actively support sustainable modes of transport and ensure that land use and zoning are fully integrated with the provision and development of high quality public transportation systems. Having regard to distance to social and community facilities to support this residential development, to the nature of the local public road network and the distance to high quality public transport route, it is considered that future occupants of the proposed development would be primarily reliant on private car as a mode of transport. The proposed development therefore contravenes policy ST2, which is a core objective of the current development plan and is thus contrary to the proper planning and sustainable development of the area.

2. Development of the kind proposed would be premature by reference to the existing deficiency in the provision of sewerage facilities and the period within which the constraints involved may reasonably be expected to cease.

Mairead Kenny
Senior Planning Inspector
14th June 2016