

## An Bord Pleanála



## Inspector's Report

**PL 06F 246363**

### **Development**

Retention of change of use of former single storey stable building to residential use and planning permission for a single storey extension to the rear of the same building and all associated site works.

Rock Cottage, Upper Cliff Roads, Howth, County Dublin

### **Planning Application**

Planning Authority: Fingal County Council

Planning Authority Reg. Ref.: F15A/0605

Applicant: Kate Connolly

Type of Application: Planning permission.

Planning Authority Decision: Refuse permission

### **Planning Appeal**

Appellant(s): Kate Connolly

Type of Appeal: First v refusal

Observers: None

Date of Site Inspection: 8<sup>th</sup> June 2016

**Inspector:** Karla Mc Bride.

## **1.0 INTRODUCTION**

### **1.1 Site and location**

The appeal site is located in Howth on the N side of Dublin and the surrounding area is predominantly rural in character with clear uninterrupted views over Dublin Bay towards Ireland's Eye to the N. The site forms part of a larger landholding which contains two semi-detached cottages (Gull Cottage & Rock Cottage). The site originally contained three cottages (Gull, Doyle and Rock) and the central cottage became amalgamated into the remaining two which have also been extended to the rear. The appeal premises comprise a detached single storey stable building to the E side of the cottages. There are two vehicular access points to the overall landholding to the W of Gull Cottage and the E of Rock Cottage.

Photographs and maps in Appendix 1 describe the site in detail.

### **1.2 Proposed Development**

Planning permission is being sought to:

- Retain change of use of stable building (58sq.m.) to residential use.
- Erect a single storey extension (34.5sq.m.) to the rear of this building for residential use.
- Connection to the foul sewer and water supply.
- All associated site works.

#### **Accompanying documents:**

- Supporting Planning Statement
- AA Screening Report

### **1.3 Planning Authority's Decision**

The Planning Authority decided to refuse planning permission for the proposed development for 6 reasons related to:

- Non-compliance with the rural housing objective for High Amenity Areas and material contravention of Objective RH07.
- Contrary to Howth SAAO objectives and material contravention of HA zoning objective.

- Undesirable precedent.
- Inadequate storage space as per RD07 and Table RD01.
- Contrary to parking standards as per Objective TO58 & Table TO3b and inadequate sightlines.
- Insufficient information in relation to waste water disposal.

This decision reflects the report of the County Planning Officer.

**Transportation Department** requested FI for car parking & sightlines.

**The Parks Department** had no objections.

**The Water Services Section** had no objection subject to conditions.

**Irish Water** had no objections subject to compliance with conditions.

**Public submissions:** Two letters of objection which raised concerns in relation to precedent; unauthorised use of stable; unsustainable development; and visual impact within the SAAO.

#### 1.4 Planning history

**Reg.Ref.F02B/0328:** Permission granted for a single storey extension to the rear of Doyle and Gull cottages and internal alterations.

**Reg.Ref.F03B:** Permission granted for amendments to above along with the removal of a store room & entrance to Gull cottage, a new sun porch to the W of Gull Cottage, new windows and replacement roof.

**Reg.Ref.F03B/0550** – Permission granted to replace the existing roof and a new balcony to the rear elevation at Rock Cottage.

## 2.0 SUSTAINABLE RURAL HOUSING GUIDELINES FOR PAs, 2005

These Guidelines state that planning authorities should:

- Ensure the needs of rural communities are identified in the development plan process, and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

- Manage pressure for overspill development from urban areas in the rural areas closest to the main cities and towns.
- Recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support.
- The Guidelines highlight four Rural Area Types which are Areas under Strong Urban Influence, Stronger Rural Areas, Structurally Weak Areas, and Areas with Clustered Settlement Patterns.

The rural area of Fingal is classified as ‘an Area under strong Urban Influence’ and the Development Plan objectives seek “to facilitate the housing requirements of the rural community...while...directing urban-generated development to areas zoned for new housing development in cities, towns and villages”.

### **3.0 DEVELOPMENT PLAN**

#### ***Zoning objective:***

The site is located within an area zoned with the objective “HA” in the Fingal County Development Plan 2011-2017. This zoning objective seeks to “Protect and enhance high amenity areas” and the Vision seeks to “Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored.” Residential use is permitted in principle subject to Note 4 which requires “compliance with rural settlement strategy.”

#### ***Rural Housing Settlement Strategy:***

The Settlement Strategy for housing in the open countryside serves to meet settlement needs which are the result of a genuine rural-generated housing need.

- Rural-generated housing needs are considered to be the housing needs of people who have social ties, or occupations which are functionally related to the rural areas of the County

- Only members of families actively involved in farming within the rural area will be considered for a rural house in areas of the County which have a zoning objective HA.
- In areas within the HA zoning objective, only one incremental house will be permitted but, where exceptional health circumstances are demonstrated, an additional house will be considered.

### ***Rural Housing policies and objectives***

*Objective RH07:* seeks to permit houses in areas with a zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.

*Objective RH09* seeks to permit one additional dwelling per farm family within areas with the zoning objective GB or HA, where the applicant demonstrates close family ties with the rural area, and, by their direct participation in running the family farm.

*Appendix 5:* provides interim siting & design guidance for rural housing.

### ***Specific objectives:***

There is a specific objective “To preserve views” from the Upper Cliff Walk which runs along the S site boundary and becomes Upper Cliff Walk to the E of the site.

### ***Howth Special Area Amenity Order (SAAO):***

The site is located within the “Other Areas” designation.

*Schedule 3, Part 2, Objective 3.4* seeks the prevention and limitation of development in “Other Areas” (as defined in Map A) and to “preserve the beauty and distinctive character of the natural, semi-natural and open areas within the special amenity area.”

*Schedule 3, Part 2* identifies that development in “Other Areas” which comprises “the conversion of an existing building which is in good condition to a residential structure” is open for consideration.

The lands to the N, E and W are identified as being “Lands used for agriculture and forestry” with the objective to “preserve the natural beauty and distinctive character of the area.”

***Nature conservation:***

The site is also located on the boundary of the Howth Head pNHA and Dublin Bay is covered by several European site designations.

**4.0 APPEAL**

**4.1 First Party appeal**

***Context:***

- The applicant who lives in Rock Cottage would like her daughter to remain in the area and the appeal premises would become a “granny flat” for Ms. Connolly whilst her daughter (and her family) would live in Rock Cottage.
- The proposal will not result in any traffic hazards, impact on the Howth SAAO or any protected views, and the design is in accordance with Objective RD07 and Table RD01.
- Ms. Connolly is seeking to regularise the existing change of use of the stable building for residential use along with a modest rear extension.
- Proposal is in accordance with the Howth SAAO, an AA Screening report concluded that the development would not have a significant effect on European sites and that Stage 2 AA is not required.

***Reason no.1: Non-compliance with HA zoning objective and Objective RH07 in relation to rural housing need and material contravention of zoning objective.***

- Proposal would be used as a detached granny flat for the applicant, it is not a speculative, and a further extension to Rock Cottage would have been visually obtrusive and in interfered with the vehicular access.
- Proposal would re-establish the original number of houses on the site and the overall landholding remains within the applicant’s ownership and none of the other houses can be sold off.

- Although Ms. Connolly is not a member of a farming family or actively involved in the running of a farm, she is a long standing resident of the area having resided at Rock Cottage since 1999.
- The Board granted permission for a detached granny flat in Sligo under PL21.241106; the PA granted permission for the retention of a car port to residential use under Reg. Ref. F00B/0421 and for the retention of a house at Upper Cliff Road under F13A/0171.

***Reason no.2: The residential use and WWT arrangements would have an adverse impact on the HA area, contrary to SAAO objectives, material contravention of HA zoning objective, undesirable precedent.***

- The conversion of an existing building which is in good condition to residential use is open for consideration in the Howth SAAO.
- Proposed detached granny flat would be functionally related to Rock Cottage, they would share the same private amenity space and vehicular access, and it would not be sold off.
- No adverse impacts on the visual amenity of the SAAO as the building already exists, it is well screened from Upper Cliff Road and not visible from lower down at Balscadden Road, and the WWT arrangements would not affect visual amenity.
- The Board is permitted to grant permission when material contravention forms part of the Council's reason for refusal, under S.37 (2) (b) (iii) of the Planning Act in relation to national and regional planning guidelines.
- The proposal complies with the 2006 Sustainable Rural Housing Guidelines as it is not urban generated and the applicant has established close family ties with the rural area.

***Reason no.3: Undesirable precedent***

- Proposal would not set an undeniable precedent as it relates to the retention of a change of use of an existing detached stable building to detached granny flat for a long term resident of the area.

**Reason no.4:** *Inadequate storage space as per Objective RD07 & Table RD01.*

- A total of 6.2sq.m. of storage space will be provided which is illustrated in Drg. No. C14-18-1000A which exceed the 3.5sq.m. requirement.

**Reason no.5:** *Inadequate car parking as per Objective TO58 & Table TO3b01 & inadequate sightlines.*

- Two spaces were originally proposed adjacent to the building.
- The site layout has been amended by Drg. No. C14-18-100A to illustrate that there is sufficient space on the site to accommodate car parking for all of the units on the site.
- The existing vehicular access will be used in line with Objective TO49 rather than seeking a separate entrance, the existing entrance is located at the end of the cul-de-sac at Upper Cliff Road, operational speeds area low and the sightlines are adequate, but any outstanding concerns could be addressed by a condition.

**Reason no.6:** *Insufficient information submitted in relation to the proposed foul sewer and water supply.*

- Foul sewer: A new connection will provided to the existing foul water main along Upper Cliff Road to the W of the site which will allow for the existing septic tank to be decommissioned and removed, and any outstanding concerns in relation to the location existing water main could be addressed by a condition.
- Water supply: A new connection will provided to the existing private water supply which the applicant is legally entitled to do.

#### **4.2 Planning Authority response**

The Planning Authority stated the following in response to the appeal:

- The proposal would continue to be contrary to Objective RH07, would have a significant adverse impact on the distinctive natural and visual amenities of the area, and would set an undesirable precedent.



- F00B/0421 related to the conversion of a car port to a playroom within the footprint of the building and was not a separate structure.
- F13A/0171 related to the retention of a house located within the RS zone which seeks to “Provide for residential development and protect and improve residential amenity”, and not within the HA zone.
- Acknowledge the updated floor plan (Drg. No. C14-18-100A), accept that adequate floor space would be provided and Reason no. 4 is no longer applicable.
- Accept that adequate car parking will be provided, the sightlines illustrated on Drg. No. C14-18-100A will require the lowering of the front wall to a maximum height of 0.9m and the removal of vegetation by way of condition and Reason no. 5 is no longer applicable.
- Retain Reason nos. 1, 2, 3 & 6 and the proposal continues to materially contravene Objective RH07, it would have a detrimental impact of the Howth SAAO and it would set an undesirable precedent.

#### **4.3 Prescribed Bodies**

The appeal was not circulated to any Prescribed Bodies.

## **5.0 REVIEW OF ISSUES AND ASSESSMENT**

The main issues arising in this case are:

1. Material contravention
2. Principle of development
3. Residential amenity
4. Vehicular access and car parking
5. Environmental services

### **5.1 Material contravention**

The planning authority decided to refuse planning permission for the proposed house for 6 reasons. Reason no.1 related to non-compliance with the rural housing objective for High Amenity Areas and material contravention of Objective RH07. Reason no.2 related to material contravention of the HA (High Amenity) zoning objective. These objectives seek to protect the distinctive character of the area and to permit houses only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.

Section 37 (2) (a) and (2) (b) of the Planning and Development Act, 2000 (as amended) set out the circumstances under which the Board can give overturn the decision of a planning authority when material contravention forms part of the reason for refusal.

The proposal is not of national or regional importance, the Development Plan incorporates all relevant national planning policy and regional guidance, the policies and objectives are clearly stated in the Plan, and the pattern of planning permissions since the last Development Plan was adopted reflect planning policy for the area.

However there are conflicting objectives in the Development Plan and the Howth SAAO with respect to the appeal site. The HA zoning objective for the area and Objective RHO7 seek to restrict residential use in high amenity areas to people directly involved in farming. The site is also located within the "Other Areas" designation in the Howth SAAO and Schedule 3, Part 2 states that residential development which comprises "the conversion of an existing building which is in good condition to a residential structure" is open for consideration.

I am satisfied that the current case presents an exemption under Section 37 (2) (b) and that the case should be dealt with on its merits.

## **5.2 Principle of development**

The proposed house would be located within a rural area covered by the “HA” zoning objective which seeks to “Protect and enhance high amenity areas.” The Council’s vision for High Amenity Areas seeks to protect them from inappropriate development, and although residential use is permitted in principle, this is subject to strict compliance with the Council’s rural settlement strategy and rural housing policy objectives.

The strategy seeks to accommodate the rural-generated housing needs of people who have social ties, or occupations which are functionally related to rural areas. However only members of families actively involved in farming within the rural area will be considered for a rural house in High Amenity Areas and only one incremental house will be permitted except where “exceptional health circumstances” are demonstrated and an additional house will be considered. According to Objective RH07, houses will only be permitted in High Amenity Areas for people who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.

The site is also located within lands covered by the Howth Special Area Amenity Order (SAAO) and within the “Other Areas” designation. Schedule 3, Part 2, Objective 3.4 of the SAAO seeks to “preserve the beauty and distinctive character of the natural, semi-natural and open areas within the special amenity area” within “Other Areas” however it also states that development in these areas which comprises “the conversion of an existing building which is in good condition to a residential structure” is open for consideration.

Ms. Connolly states that she has lived in Rock Cottage since c.1999 and that her daughter and her daughter’s family have recently moved in to the family home with her. Ms. Connolly submits that she will occupy the converted and extended stable as a “granny flat” and that her daughter’s family will reside in the family home at Rock Cottage. The applicant states that it would not be practical to extend the existing cottage to provide an integrated granny flat as any such works would with be visually obtrusive or interfere with vehicular access to the site. Ms. Connolly submits that she qualifies for a house in this area on the basis of having long established family and social ties to the area, and that she has lived there since 1999, which complies with the 2006 Rural Housing Guidelines.

In relation to Ms Connolly's bone fides, I am satisfied that the applicant is a long established resident of the local area and that the residential unit is required for family reasons. However, the use of the dwelling should be ancillary to the family home at Rock Cottage and it should only provide accommodation for immediate family and should not be sold or let separately to the main dwelling unit. This concern could be addressed by way of a planning condition.

In relation to visual amenity, I am satisfied that the change of use of the single storey stable building in-combination with the single storey rear extension would not have an adverse impact on the visual amenities of the High Amenity area. The single storey stable building (c.58sq.m.) is already present on the site and it is well screened from public view from the S along the cliff walks by existing vegetation. The proposed single storey extension (c.34sq.m.) would be located entirely to the rear of the stable building and would also not be visible from public views from the S. The lands slope down steeply towards the cliffs to the N and neither structure would be visible from any public views to the N. The existing neighbouring cottages to the W would screen the proposed extension from public view and there are no public paths to the immediate E of the site.

In relation to the HA zoning objective for the site, the Rural Settlement Strategy and Objective RH07, it is noted that this is not a traditional rural area where the predominant land use is agriculture. However I am satisfied that the proposed development, which would be located within an "Other Areas" designation in the Howth SAAO, would comply with Schedule 3, Part 2 of the Order. The proposed retention of the conversion of an existing building to residential use, and the proposed rear extension is acceptable, having regard to the modest scale of the proposed works and the level of on-site screening in the area.

### **5.3 Residential amenity**

The proposed development would provide for an acceptable level of residential amenity in relation to floor area, room size, orientation, daylight and sunlight. The large garden to the rear of the two existing cottages would be shared with the proposed unit which is acceptable in terms of residential amenity. Drawing No. C14-18-100A which was submitted with the appeal documents confirm that adequate storage space will be provided in line with Development plan requirements.

#### 5.4 Vehicular access and car parking

Vehicular access off Upper Cliff Road would utilise the existing vehicular access to Rock Cottage. The proposed development would provide for an acceptable level of off street car parking to serve the two existing cottages and the proposed unit, in line with Development plan requirements, as confirmed by Drawing no. C14-18-100A which was submitted with the appeal documents. The sightlines at the existing vehicular entrance are considered acceptable subject to the lowering of the front boundary wall. This could be addressed by way of a condition.

#### 5.5 Other issues

**Environmental services:** The proposed development would be connected to the existing foul sewer to the W and the existing private water supply to the E which is acceptable. However the applicant should be required to submit details of the exact location of these services and the proposed connection points, to the planning authority for their written agreement before development commences.

**Appropriate assessment:** The contents of the applicant's AA Screening Report are noted. Although the proposed development would be located in close proximity to several European Sites within Dublin Bay, there would be no direct connection with any of the SACs or SPAs. As such the proposed development would not have any significant adverse effects on these sites, their Qualifying Interests or Conservation Objectives, and progression to a Stage 2 Appropriate Assessment is not required.

**Financial contribution:** Standard conditions should be applied in accordance with the Council's Section 48 Scheme.

**Part V:** The Part V Section 96 requirements in relation to the provision of social house do not apply in this case.

**Precedent:** The examples referred to by the applicant are noted. However I am satisfied that the specific circumstances were different in each of the cases so as not to set a precedent for the subject case. Having regard to the particular circumstances of this case I am also satisfied that the proposed development would not an undesirable precedent for similar future developments in the area.

## 6.0 RECOMMENDATION

Arising from my assessment of the appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below, and subject to compliance with the attached conditions.

### REASONS AND CONSIDERATIONS

Having regard to the provisions of the Fingal County Development Plan, 2011 to 2017, and to the nature, form, scale and design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenities of the area nor would it give rise to a traffic hazard or endanger the safety of other road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application 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 particulars.

**Reason:** In the interest of clarity.

2. The proposed residential unit shall be ancillary to the main dwelling and shall provide accommodation for immediate family of the residents of the main dwelling. The unit shall not be sold, let or otherwise conveyed save as part of the main dwelling unit.

**Reason:** To ensure that the dwelling unit is only used for the purposes proposed and not as an independent dwelling unit.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of Irish Water and the planning authority for such works and services. The applicant shall submit details of the exact location of the foul sewer and private water supply and the proposed connection points to each of these services, to the planning authority for their written agreement before development commences

**Reason:** In the interest of public health.

4. The vehicular access and car parking spaces shall be provided in accordance with the site layout indicated on Drawing Number C14-18-100A and the front boundary wall shall be lowered to a maximum of 0.9m in order to provide for adequate sightlines.

**Reason:** In the interest of traffic safety.

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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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.

**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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Karla Mc Bride

Senior Inspector

24<sup>th</sup> June 2016