



An
Bord
Pleanála

Inspector's Report PL06S.248214

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| Development | Retention of house, permission for decking, landscaping and ancillary site development works. |
| Location | Grange Orchard, Whitechurch Road, Rathfarnham, Dublin 16. |
| Planning Authority | South Dublin County Council |
| Planning Authority Reg. Ref. | SD16A/0449 |
| Applicant | John Leader |
| Type of Application | Retention Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | 1 st Party v. Refusal |
| Appellant | John Leader |
| Observers | None |
| Date of Site Inspection | 23/05/17 |
| Inspector | Pauline Fitzpatrick |

1.0 Site Location and Description

1.1. The site, which has a stated area of 1.06 hectares, is accessed from a cul-de-sac road off Whitechurch Road. The said cul-de-sac provides access to four other dwellings, two of which back onto the site to the east/north-east. The cul-de-sac runs to the west of Whitechurch National School. The Edmundstown golf course bounds the site to the north and north-west. The site is roughly rectangular in shape and is overgrown in part, with a power line traversing the north-western section. A partially completed building is present on site in addition to a number of timber garden sheds. The dwelling subject of the application is positioned in the centre of the site.

2.0 Proposed Development

2.1. The proposal is for the retention of a one bedroom chalet type dwelling with a stated floor area of 46.7 sq.m. Decking is to be provided to the southern and western elevations with the area around the dwelling to be landscaped.

3.0 Planning Authority Decision

3.1. Decision

Refuse retention permission for one reason which can be summarised as follows:

With reference to section 11.3.1 (iv) of the County Development Plan the dwelling does not meet the minimum standards for a two bedroom dwelling with regard to (a) target gross floor area, (b) aggregate bedroom area, (c) storage, and (d) minimum unobstructed living room width. The proposal would, therefore, seriously injure the amenities of property in the vicinity and the future occupants of the dwelling, would provide for a substandard form of dwelling and would materially contravene the zoning objective to protect and/or improve residential amenity.

3.2. Planning Authority Reports

The Planning Officer's report set out in the Record of Executive Business and Chief Executive's Order states that as the study could be used as a bedroom the unit is

considered to be a two bedroom house and is assessed as such. The 46.7 sq.m. dwelling does not meet the minimum standards for a two bedroom dwelling with regard to target gross floor area, aggregate bedroom area, storage and minimum unobstructed living room width. A refusal of retention permission for one reason is recommended.

3.2.1. Other Technical Reports

Senior Fisheries Environmental Officer has no objection subject to adequacy of existing septic tank.

Senior Environmental Health Officer has no objection.

Roads Department has no objection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

The planning history on the site is detailed in the planning officer's report as summarised in section 3.2 above. Of note:

SD02A/0776 – permission granted for a two storey dwelling on the site.

5.0 Policy Context

5.1. Development Plan

South Dublin County Development Plan 2016-2022

The site is within an area zoned RES the objective for which is to protect and/or improve residential amenity.

Section 11.3.1(iv) relates to dwelling standards

The design and layout of individual dwellings should provide a high quality living environment for residents. Designers should have regard to the targets and standards set out in the Quality Housing for Sustainable Communities Guidelines, DEHLG (2007) with regard to minimum room sizes, dimensions and overall floor areas when designing residential accommodation. All houses must be required to accord with or exceed the minimum floor area standards set out in Table 11.20. Dwellings should also be designed to provide adequate room sizes that create good quality and adaptable living spaces.

Table 11.20: Minimum Space Standards for Houses Type of Unit Houses:

One Bedroom 50 sq.m

Two Bedroom 80 sq.m

5.2. Quality Housing for Sustainable Communities Guidelines DEHLG 2007

Dwelling types are defined in terms of the number of bedrooms, the number of intended occupants and the number of storeys. The area of a single bedroom should be at least 7.1m² and that of a double bedroom at least 11.4m². The area of the main bedroom should be at least 13m² in a dwelling designed to accommodate three or more persons. The recommended minimum unobstructed living room widths are 3.3 metres for one bedroom, 3.6 metres for two bedroom and 3.8 metres for three bedroom dwellings, and the minimum room widths for bedrooms are 2.8 metres for double bedrooms and 2.1 metres for single bedrooms.

Table 5.1: Space provision and room sizes for typical dwellings

| Dwelling Type | Target gross floor area | Minimum - main living room | Aggregate living area | Aggregate bedroom area | Storage |
|--------------------------|-------------------------|----------------------------|-----------------------|------------------------|---------|
| | sq.m. | sq.m. | sq.m. | sq.m. | sq.m |
| 1bed/2P House (1 storey) | 44 | 11 | 23 | 11 | 2 |
| 2bed/3P House (1 storey) | 60 | 13 | 28 | 20 | 3 |

5.3. Natural Heritage Designations

None adjoining or in the vicinity of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Kiaran O'Malley & Co. Ltd. on behalf of the 1st party can be summarised as follows:

- There has been a small mobile home type dwelling on the site since the 1990's, owned by the applicant's parents. The applicant continued to reside at the site on taking ownership in 2010. It was necessary to upgrade the existing dwelling to that currently on the site.
- There has been no change to the foundations which were retained in place. As a result of keeping the footprint the internal layout was already established and the floor area of the dwelling set at 47 sq.m.
- There is extensive open space, external storage and amenity that addresses any perceived shortfall of internal floor space.
- The planning authority has alleged non-compliance with the floor area standards on the basis that the study could, at some future time, be used as a second bedroom.
- The floor area of the study at 6.19 sq.m. is below the minimum floor area for a single bedroom which is 7.1 sq.m. The planning authority has erred in classifying the study as a second bedroom and the dwelling as a two bedroom dwelling.
- When assessed against the relevant guideline standards for a one bedroom dwelling the dwelling is only deficient in terms of the floor area of the bedroom. This can be increased through the removal of all or part of the wall between the bedroom and study. This would create a bedroom of 15.9 sq.m. which would exceed the 11 sq.m. minimum of Table 5.1. This internal amendment is not considered necessary. The dwelling layout in terms of

space requirements and room sizes provide more than a sufficient level of accommodation to meet the applicant's needs.

- The living room at 18.6 sq.m. exceeds the minimum target of 11 sq.m. It is queried why the planning authority is exercised by the width of the living room. The shape of the room means its utility is not compromised by any unfounded concern about its width. The minor deviation vis a vis living room width has not affected the occupant's residential amenity.
- The guidelines do not purport to be absolute. The planning authority may, whilst still enforcing the ethos of the document, apply the principles in a pragmatic way in the case of any given development and specifically those that are one off and pre-existing.
- The dwelling does not seriously injure the amenities of property in the vicinity or the residents of the dwelling.
- In the event that the Board deems section 37(2) of the Planning and Development Act 2000, as amended, to apply it is submitted that section 37(2)(b)(iii) enables the Board to grant permission because the development complies with the Guidelines issued under Section 28 of the Planning and Development Act 2000 as amended.
- Without prejudice the applicant would accept a temporary permission for 5 years which would allow sufficient time to plan for a replacement dwelling on the site.

6.2. **Planning Authority Response**

It confirms its decision. The issues raised in the appeal have been covered in the planner's report.

6.3. **Observations**

None

7.0 Assessment

- 7.1. From the details provided in support of the appeal there has been a structure used as a dwelling on the site for a period of time. The applicant took ownership from his parents in 2010. The current dwelling, in using the original foundations, has the same floor area as that historically on the site. It is set within a large plot to the rear of a number of dwellings and, in view of the mature perimeter planting, is not visible from same.
- 7.2. Taking into consideration the location of the site within an area zoned RES, the objective for which is to protect and/or improve residential amenity, the principle of the replacement dwelling is acceptable.
- 7.3. The substantive issue arising is the internal floorspace provided for within the dwelling and its compliance with the current County Development Plan provisions and the provisions as set out in the document 'Quality Housing for Sustainable Communities Guidelines' (2007) to which the said development plan specifically references in terms of minimum room sizes, dimensions and overall floor areas.
- 7.4. As per the floor plans accompanying the application the unit provides for 1 bedroom and a study. In view of the fact that the floor area of the study at 6.1 sq.m., falls short of the 7.1 sq.m. minimum as set out in the guidelines, I would not concur with the planning authority's conclusion that the unit should be assessed as a two bedroom unit. The application before the Board is for a 1 bedroom unit, only, and as such should be assessed in that context. A condition stipulating this fact is recommended in the interests of clarity should permission be granted.
- 7.5. As per the current development plan all houses are required to accord with or exceed the minimum floor area standards set out in Table 11.20 and that dwellings are to be designed to provide adequate room sizes that create good quality and adaptable living spaces. Reference is also made to adherence with the Guidelines for Quality Housing for Sustainable Communities 2007. Whilst I fully acknowledge that the figures as given in the said guidance document are not absolute I submit that they provide for minimum rather than aspirational requirements and are so as to ensure for an acceptable level of residential amenity.

- 7.6. At the outset the floor area of the unit at 46.7 sq.m. falls short of the 50 sq.m. minimum requirement as set out in Table 11.20 of the development plan but I note that it meets the 44 sq.m. minimum for a 1 bedroom single storey unit as set out in Table 5.1 of the guidelines as detailed above. Working on the principle that the unit is occupied by no more than 2 persons the bedroom, at 10.2 sq.m. falls short of the 11.4 sq.m. minimum requirement. In addition I note that the width of the living area at 2.895 metres falls short of the 3.3 metre minimum and that no specific storage area is defined although the utility room as delineated on the plans could be considered to provide for same.
- 7.7. Notwithstanding the applicant's view that the room sizes provide more than sufficient level of accommodation to meet his needs I consider it entirely appropriate that the bedroom meet the minimum floor space requirements by the removal or setting back of the dividing wall to the study room as suggested in the grounds of appeal so as to ensure a minimum acceptable standard of development. A condition requiring details of the required amendments can be sought by way of condition. The living space with a floor area of 18 sq.m. exceeds the 11 sq.m. minimum requirement and I do not consider that the failure to attain the minimum width of 3.3 metres has a material negative impact on the amenities provided by the space.
- 7.8. Subject to the recommended amendment detailed above I have no objection to the retention of the dwelling as constructed and do not consider that the proposal would contravene materially the zoning objective for the area. I do not consider it appropriate to limit the permission to five years. Should the applicant seek to replace or extend the existing unit he would be obligated to comply with the relevant planning requirements in that regard.
- 7.9. In terms of services I note that the dwelling is served by the existing septic tank located to the east of the dwelling and which served the previous dwelling on the site. The system has served and continues to serve the established needs of the applicant.
- 7.10. Section 10 of the South Dublin Development Contribution Scheme sets out the definitions of exemptions and reductions. Section (xxviii) sets out the provisions for demolition and rebuild. There is no evidence to suggest that a contribution has

been previously paid in this instance. Therefore the contribution is to be levied on the development in full.

- 7.11. As the planning authority has decided to refuse permission on the grounds that the development materially contravenes the zoning objective for the area the Board may only grant permission where it considers one or more of four specified criteria are met as set out in Section 37(2)(b) of the Planning and Development Act, 2000, as amended. In this regard I submit that the proposed development is not of strategic or national importance and that the objectives in the development plan are clearly stated and are not conflicting. However I would concur with the agent for the applicant that the proposal is in accordance with the Quality Housing for Sustainable Communities Guidelines 2007 in terms of dwelling unit sizes. In terms of the fourth criteria the pattern of development and permissions granted in the area since the making of the plan has not altered. In my opinion, therefore, the Board can grant permission in this instance under Section 37(2)(b)(iii).

AA- Screening

Having regard to the location of the site on zoned and partly serviced lands and the nature and scale of the proposed development 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.

8.0 Recommendation

- 8.1. I recommend that retention permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the scale and design of the dwelling to be retained, to the residential zoning of the site as set out in the current development plan for the area and to the character of the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would provide for an acceptable standard of residential amenity for the prospective occupants and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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. This grant of retention permission is for a one bedroom dwelling unit only.

Reason: In the interest of clarity

3. The floorspace of the bedroom shall be increased to a minimum of 11.4 sq.m. Within three months of the date of this order documentary evidence that the necessary works have been carried out to comply with this requirement, certified by a suitably qualified person, shall be submitted to the planning authority.

Reason: To ensure a minimum acceptable standard of residential amenity for the occupants of the dwelling.

4. 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.

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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Pauline Fitzpatrick
Senior Planning Inspector

May, 2017