



An
Bord
Pleanála

Inspector's Report ABP-302075-18

Development	2 no. two-storey, detached, three-bedroom-plus-study, dwelling houses, with two off-street parking spaces.
Location	Lands to rear of the Copper Kettle Coffee Shop, Main Street, Rathcoole, Co. Dublin.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18A/0138
Applicant(s)	Garocal Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Garocal Ltd.
Observer(s)	Michael & Catherine McAuley Fuxing Wang & Jing Zhu Annette Byrne & Jason O'Toole Stephen & Elizabeth Harrington Paul & Fiona Bailey

Ford Family

Gareth & Sinead Walsh

Date of Site Inspection

21st September 2018

Inspector

Michael Dillon

1.0 Site Location and Description

The site, with a stated area of 0.04293ha, is located to the rear of a two-storey commercial premises on the north side of Main Street in Rathcoole, Co. Dublin. The site is generally flat – although the overgrown rear garden area of the building is located approximately 1.0-1.5m above the level of the adjoining commercial units on Main Street. The site is surrounded on three sides by a recently-constructed 2.0m high, concrete block wall which is capped, but not plastered (on the site side at least). To the north, the site abuts the rear garden of no. 7, The Square, Aubrey Manor (a two-storey house). To the east the site abuts a small development of 8 no. two-storey residential units, Barrack Court, which takes access from Main Street. There are exactly eight parking spaces within this development. To the south, the site abuts the rear elevation of two-storey commercial premises with a substantial series of flat-roofed extensions, and yard to the rear – the boundary with which is undefined. To the west, the site abuts two-storey residential units in Aubrey Manor.

2.0 Proposed Development

- 2.1. Permission sought on 23rd April 2018, for development on a site to the rear of a commercial premises on the north side of the Main Street. The proposal provides for two-storey houses of 115m² and 119m² respectively. Each house will have one parking space. Access is from a short cul de sac which serves eight, two-storey, residential units within Barrack Court. The creation of the access necessitates the removal of two parking spaces serving Barrack Court. Alternative parking spaces are to be provided within the red line boundary of the site. It is proposed to connect to the public water supply and foul sewer within Barrack Court to the east. Surface water is to be discharged to soakways within rear gardens.
- 2.2. The application is accompanied by a Planning Application Report.
- 2.3. I note that the agent for the applicant made an observation to the PA (following payment of a €20 fee), rebutting objections lodged with the PA from neighbours.

3.0 Planning Authority Decision

By Order dated 18th June 2018, South Dublin County Council issued a Notification of decision to refuse planning permission for six reasons, which can be summarised as follows-

1. Overbearing aspect and overshadowing of existing houses in Aubrey Manor and Barrack Court.
2. No Architectural Impact Assessment submitted to assess the potential impact on the ACA and a Protected Structure.
3. No detailed landscaping provisions were outlined.
4. No percolation results submitted for the soakways.
5. Floor areas of rear bedrooms are below recommended standards set out in 'Quality Housing for Sustainable Communities: Best Practice Guidelines' (DoEH&LG 2007).
6. Undesirable precedent for other similar developments.

4.0 Planning History

SD03A/0286: Permission granted on 10th March 2004, for a two-storey house at the north end of the current appeal site, together with relocation of existing car-parking adjacent to the site. Development was never carried out.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Dublin County Council Development Plan 2016-2022.

- The site is zoned 'RES' – To protect and/or improve residential amenity, and also 'VC' – To protect and improve and provide for the future development of Village Centres.
- The site is located within an Architectural Conservation Area (ACA).

- The commercial property on Main Street – from which this site is carved – is a Protected Structure (RPS ref. 317).
- The site is located within a Zone of Archaeological Potential associated with Rathcoole Village – DU021-030.

5.2. Natural Heritage Designations

The site is located within the centre of the village of Rathcoole. There are no natural heritage designations in the vicinity of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal from Patrick M. Kerr, Architect, agent on behalf of the applicant, Garocal Ltd, received by An Bord Pleanála on 16th July 2018, can be summarised in bullet point format as follows-

- The site is zoned for residential development. This is an infill site. The development is limited in scale – two houses only. The principle of development should not, therefore, be in question.
- The design of the houses is in sympathy with surrounding residential development. The area is already densely populated. Houses have been designed so as to minimise overshadowing and overlooking of adjacent property.
- No.s 5 & 7 Barrack Court comprise infill development – and the proposed development is similar in scale.
- Aubrey Manor residential units to the west of the site are atypical. The units are L-shaped around a courtyard – and are effectively single-aspect units at first floor level. They were designed with a clear knowledge of their context. Only corridor and bathroom windows face east into the site. The bulk of these buildings is only 5m from the appeal site boundary. It is entirely reasonable to construct houses in close proximity to the common boundary – when

consideration is given to how close these houses were constructed to the boundary.

- There will clearly be some overshadowing of neighbouring sites – but this is also the case for adjoining housing units overshadowing the appeal site itself.
- An Architectural Impact Study could have been sought by way of additional information, if the PA was concerned in relation to the impact of the development on the ACA and on a protected structure on Main Street. The Conservation Officer of the PA considered that the separation distance from the protected structure would result in minimal impact.
- A landscape plan for such a modest infill development is not required. A condition could be attached to any grant of planning permission requiring submission of a landscaping plan, prior to commencement of development. The Parks & Landscape Services/Public Realm Department of SDCC did not recommend refusal on this ground.
- It would be possible to have requested the applicant to submit percolation studies by way of additional information – as requested by the Water Services Department of SDCC. This is a small infill development. A condition could have been attached requiring percolation tests to be carried out prior to commencement of development.
- The assessment of the PA in relation to bedroom sizes is not accepted – reason for refusal no. 5. The houses are for five persons – and not six. The master bedrooms are circa 13.9m². The second bedrooms are circa 11.1m² – only marginally smaller than the required 11.4m² for double bedrooms. The third bedrooms are circa 8.37m² – well above what is required for a single bedroom. It should be noted that the second bedrooms also have an en-suite bathroom, and this would offset the marginal shortfall in floor area. If the Board is concerned in relation to the area shortfall for the second bedrooms, then the applicant would be happy to accept a condition requiring the omission of the en-suite bathroom serving this room in each of the two houses.
- There is more than adequate storage space provided within each house – almost 5m². Additional storage would be available within the attics. The

possibility exists for the provision of storage within sheds within the back gardens of the houses. The PA could have sought additional information in relation to the perceived shortfall in storage space.

- It is contended that the development is in accordance with the provisions of the Development Plan, and the issue of precedent, therefore, is mute. The Barrack Court development is a precedent which the proposed development is following, and it is understood that Barrack Court was an LA development.

6.2. Planning Authority Response

There was no response received from SDCC.

6.3. Prescribed Bodies

6.3.1. An Bord Pleanála referred the appeal for comment to the following prescribed bodies, requesting comment on or before 20th September 2018.

- An Chomhairle Ealaíon.
- An Taisce.
- Fáilte Ireland.
- The Heritage Council.

6.3.2. There were no responses received.

7.0 Observations

7.1. There are seven observers as follows-

- Michael & Catherine McAuley, 7 The Square, Aubrey Manor, Rathcoole, received by An Bord Pleanála on 25th July 2018.
- The Ford Family, 3 The Way, Aubrey Manor, Rathcoole, received by An Bord Pleanála on 13th August 2018.
- Paul & Fiona Bailey, 'Alanna Cottage', Main Street, Rathcoole, received by An Bord Pleanála on 13th August 2018.

- Stephen & Elizabeth Harrington, 2 The Way, Aubrey Manor, Rathcoole, received by An Bord Pleanála on 13th August 2018.
- Annette Byrne & Jason O'Toole, 8 Barrack Court, Rathcoole, received by An Bord Pleanála on 13th August 2018.
- Fuxing Wang & Jing Zhu, 1 The Way, Aubrey Manor, Rathcoole, received by An Bord Pleanála on 13th August 2018.
- Gareth & Sinead Walsh, 8 The Square, Aubrey Manor, Rathcoole, received by An Bord Pleanála on 13th August 2018.

7.2. The issues raised can be summarised in bullet point format as follows-

- Observers support the decision of SDCC.
- Soakpits are inadequate and will result in flooding of adjoining property. No percolation tests were undertaken.
- Development will result in overlooking and loss of privacy in both gardens and houses.
- The houses are too large and will impact on visual amenity of existing residents.
- All construction traffic will have to come through Barrack Court. This will result in inconvenience (noise, dust and traffic) and a danger for residents.
- There is already a shortage of parking in Barrack Court. The development will exacerbate this problem.
- There is no public open space within Barrack Court.
- The development would impact negatively on an ACA.
- The development would impact negatively on a Protected Structure on Main Street – to the south of the site.
- Security of Barrack Court will be compromised by this development – making it easier for thieves to climb into adjoining properties.
- The proposed houses break an already established building line.
- Property in the area will be devalued if this development proceeds.

- Additional traffic would contribute to existing congestion on Main Street.
- The replacement parking spaces are too small and will be right in front of windows of the new houses. Excessive reversing will be required to get out of the spaces. There is no provision made for parking whilst construction is under way.
- Construction will displace vermin onto adjoining sites.

7.2.1. The observations are accompanied by a letter from a GP in relation to the health of an occupant of a house in the vicinity.

8.0 Assessment

The principal issues of this appeal relate to residential amenity, impact on an Architectural Conservation Area/Protected Structure, car-parking and surface water.

8.1. Development Plan and Other Guidance

The proposed development is in accordance with the zoning provisions of the Plan. I have elsewhere in this report addressed the issue of Protected Structures, Architectural Conservation Areas, and Areas of Archaeological Potential.

8.2. Layout and Design

8.2.1. Permission was granted in the past for one house on this site – a permission which was never taken up, and which has lapsed. The site has a stated area of 429m². Out of this must be taken the middle section of the site to provide for road access, footpaths and parking spaces – some 75m². This results in a very tight site – where front gardens have been reduced to a minimum and where only one on-site parking space for each house can be provided. The two houses have been so placed on site to roughly correspond with the building lines of adjoining houses in Barrack Court. To the north, the site abuts the rear gardens of houses, but where there is no direct overlooking between opposing rear windows – houses being a right-angles to each other. In relation to the two-storey houses to the west, these have been constructed very close to the appeal site boundary. It would not be reasonable to require a sterilisation area within the appeal site – just to maintain the amenities of houses

which have been constructed so close to the common boundary. The applicant points out that these houses have been constructed so as to take account of the restricted site depths.

- 8.2.2. The bedroom windows of the first-floor rear elevation of House A (the northern house) are located only 7m from the property boundary. This would result in loss of privacy within the rear garden of the adjoining property to the north. This would result in loss of amenity for the residents of this house. Rear gardens are limited in area – 60 & 69m² respectively. In the event that the Board decides to grant permission, it would be appropriate to attach a condition de-exempting future rear extensions, in the interests of residential amenity.
- 8.2.3. The PA was concerned that one of the second bedroom in each house was marginally below the required 11.4m² for such bedrooms. The size could be increased by way of removal of the en-suite bathrooms with these bedrooms. The applicant states that the houses are for five persons – notwithstanding that drawings submitted show three double bedrooms. The third bedroom in each house is clearly a single bedroom in terms of floor area. The proposed houses will not have gable-elevation windows addressing adjoining property – other than en-suite bathrooms or staircases. A condition could be attached to any grant of permission requiring such to be in permanent obscured glazing.
- 8.2.4. Shadow analysis diagrams would have been useful in considering the impact of these houses on adjoining property – particularly those houses to the west and garden areas to the north and east.
- 8.2.5. I would consider that the proposal represents over-development on a restricted site which would result in loss of amenity for the residents of surrounding properties, and permission should be refused for this reason.

8.3. **Access and Parking**

8.3.1. Access

It is proposed to take access to the site through Barrack Court – a small, cul de sac development of eight houses. Traffic from two additional houses will not have any significant impact in relation to access to this cul de sac from Main Street or egress onto Main Street. The houses are modest in size.

8.3.2. Parking

The proposed development will provide one parking space for each of the houses proposed. The scheme will necessitate the relocation of two parking spaces serving the Barrack Court development. These spaces will be relocated 9.5m further to the west. This relocation will result in the parking spaces being 2.0 & 3.5m respectively from ground floor study windows within the new houses. I would note that the relocated parking spaces will serve existing houses in Barrack Court and not the proposed new houses. This could result in high-sided vehicles (minibus or van) being parked in such close proximity to windows of houses. This would be a recipe for future disagreement between residents. Permission should be refused on grounds of residential amenity. Further, the relocated parking spaces would necessitate considerable reversing manoeuvres to either enter or leave the relocated parking spaces. This is undesirable in terms of traffic safety and convenience of drivers – particularly elderly drivers or those with mobility difficulties. The existing situation is far from desirable, and the proposed development would only exacerbate the problem. I note that there is a substantial petition of objection from Rathcoole Community Council to SDCC, in relation to traffic congestion and shortage of parking spaces within the village.

8.4. **Water**

8.4.1. Water Supply

It is stated that water supply will be provided from the existing mains. Drawings submitted do not show the location of the mains. There does not appear to be any report from Irish Water on the file. It would be possible to attach a condition to any grant of permission to cover this issue.

8.4.2. Foul Waste

It is proposed to discharge foul waste to an existing foul main within Barrack Court. No details of this sewer have been provided. I note that there is a substantive petition submitted to SDCC from Rathcoole Community Council in relation to inadequate capacity at the Tay Lane Pumping Station, which serves the village.

8.4.3. Surface Water

It is proposed to dispose of surface water to soakways within the rear gardens of the two houses. The PA was concerned that no percolation studies were undertaken, and the Water Services Department recommended that such be undertaken. The applicant considers that the PA could have sought such by way of additional information. It may be that the PA was disposed to refuse permission on other grounds, and so did not wish to put the applicant to the expense of such a submission, when it was intending to refuse permission anyhow. I would not agree with the contention of the appellant that a condition could have been attached to any grant of permission requiring submission of percolation tests for the agreement of the PA, prior to commencement of development. There is a reasonable concern, having regard to the limited area of each site and the proximity to other houses and gardens, that the development would result in flooding of the site itself and perhaps adjoining sites. Observers express concern in relation to flooding on surrounding sites, arising from this development. Permission should be refused in the absence of a clear indication that the ground on site has sufficient percolation capacity to accommodate run-off from roofs and impermeable hard surfaces – or where alternative solutions can be put forward such as green roofs or exceptional circumstances to warrant connection to public surface water or foul sewers.

8.5. **Architecture and Archaeology**

- 8.5.1. Having regard to the nature of development on surrounding lands and to the backland nature of the site, I would consider that two-storey structures on this site would not have a detrimental impact on the Architectural Conservation Area. The second reason for refusal referred to the absence of an Architectural Impact Study. I would not consider that such would be necessary – regard being had to the absence of any proposals for demolition, the nature and scale of the proposed development, the infill nature of the proposed development, and the design, aspect and character of buildings on adjoining sites.
- 8.5.2. The proposed southern house is located a sufficient distance from the Protected Structure on Main Street, so as not to have any significant impact on it. This Protected Structure has a series of flat-roofed extensions to the rear of it, of no

architectural merit whatever. The houses will not be visible from Main Street over the roof of the two-storey Protected Structure.

- 8.5.3. The application was referred by SDCC to the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht. The DAU was satisfied to recommend pre-development testing for archaeology. In the event that the Board is minded to grant planning permission for this development, it would be prudent to attach an archaeological monitoring condition to construction works, in view of the location of the site within a Zone of Archaeological Potential – DU021-030.

8.6. **Other Issues**

8.6.1. Development Contribution

In view of the refusal of permission, no development contribution was required of the developer. In the event that the Board is minded to grant planning permission for this development, then it would be appropriate to attach a condition requiring payment of a development contribution in accordance with the Development Contribution Scheme for SDCC.

8.6.2. Appropriate Assessment

The site is located within the built-up area of Rathcoole village, and comprises an infill site. It is to be connected to the public foul sewer network.

8.6.3. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

8.6.4. Landscaping

The third reason for refusal of permission referred to the absence of a landscape plan for the development. The Parks & Landscape Services/Public Realm Department of the local authority recommended that permission could be granted subject to attachment of appropriate landscaping conditions. If the planning authority had major concerns in relation to the absence of a landscape plan, it would be

possible to request one by way of additional information. I would agree with the appellant, that it would be possible to require submission of same by way of condition attached to any grant of planning permission, regard being had to the limited nature of the development. I would not consider that this is a stand-alone reason for refusal of planning permission.

8.6.5. Part V Housing

The site is below the minimum threshold of four houses, and Part V does not, therefore, apply to this planning application.

8.6.6. Displacement of Vermin

No evidence has been submitted to show that construction will result in displacement of vermin onto adjoining sites. This is not strictly a planning issue.

8.6.7. Construction Traffic

Construction traffic will have to access the site through Barrack Court. I would not consider that this necessarily implies excessive disruption for residents. There will be some short-term disruption during delivery of materials and construction. Parking spaces within Barrack Court are dedicated to residents, and will not be available to construction workers. Within a village setting such as this, noise and dust can be controlled by way of condition relating to construction hours – so as not to inconvenience existing residents at times when they are most likely to be at home.

8.6.8. Public Open Space

The fact that there is no public open space within Barrack Court, is not a relevant consideration for this appeal. The addition of two houses will neither improve nor dis-improve this situation. The provision of public open space within Rathcoole is a matter for the planning authority. Generally, the amount of public open space which is required to be provided with small housing developments is not of sufficient size to be of any use in terms of anything other than visual amenity.

8.6.9. Security

No evidence has been produced to indicate that the proposed development would represent a threat or problem in relation to security for existing residents. The site is surrounded by a 2m high wall. It is open to residents to provide additional security measures for their property, should they require it. The proposed development will

not have any impact on security for property, in general, in this area. Residential use will replace derelict lands.

9.0 Recommendation

I recommend that permission be refused for the Reasons and Considerations set out below.

10.0 Reasons and Considerations

1. The proposal constitutes over-development on a restricted site, which would result in over-shadowing and overlooking of adjoining residential property, which would be seriously injure the amenities or depreciate the value of property in the vicinity.
2. The proposed relocation of two parking spaces within the Barrack Court residential development would represent a loss of amenity for residents entitled to use those spaces. The vehicular manoeuvres required of motorists using the relocated spaces would necessitate excessive reversing which would constitute a traffic hazard. The positioning of the relocated parking spaces would detract from the visual amenities of future residents of the new houses, and could result in parking of high-sided vehicles in close proximity to study windows, which could promote disharmony amongst neighbours, and seriously injure the amenities of property in the vicinity.
3. The applicant has failed to establish if the ground is suitable for disposal of surface water within rear garden soakways. The development could result in flooding of the site or adjoining sites, which would be prejudicial to public health.

**Michael Dillon,
Planning Inspectorate**

9th October 2018.