



An
Bord
Pleanála

Inspector's Report

ABP-304115-19

Development	4 self-catering tourist accommodation units, use of existing house as caretaker accommodation and all ancillary site works.
Location	Church View, Church Road, Saggart, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18A/0321
Applicant(s)	Sandra and Denise Kelly
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sandra and Denise Kelly
Observer(s)	none
Date of Site Inspection	15th August, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Church Road a short distance to the north east of the centre of Saggart village. The site is located to the east and south of the graveyard that is located on lands to the north of Church Road and the access to the graveyards forms part of the western boundary of the appeal site. The graveyard is separated from the appeal site by a stone wall that is approximately 1.6 metres in height at the northern end of this boundary, rising higher than this along the boundary with the access road to the south.
- 1.2. To the north east, the site is bounded by single storey dwellings. To the south west, the corner of the site is a single storey building located at the corner of the access to the graveyard and Church Road, the use of which appears to be connected with the graveyard.
- 1.3. The western boundary of the site is characterised by a number of mature trees and the northern boundary by hedgerow. The site is relatively level, and the rear of the site behind the existing cottage is vacant save for some discarded building materials and a car. A small porta cabin type structure was also on the site close to the north eastern boundary at the time of inspection.
- 1.4. The stated area of the appeal site is 0.16 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a self-catering holiday home development comprising a total of 4 no. units for short term letting. The development proposes the conversion of the existing bungalow on the site to use as a caretakers cottage on site for the supervision of the self catering accommodation use and the construction of 4 no. single storey two bedroom units on the lands to the rear (north) of the existing cottage. Access to this proposed new development to the rear is proposed to be via a new access that would run to the south of the existing cottage and an access road running along the southern side of the site.
- 2.2. The units proposed to be constructed to the rear of the site comprise two block of two connected units that are located along the eastern and north eastern side of the

site with the access road running along the western side. The floor area of the units is c.81 sq. metres. Small patio or terrace areas are proposed to serve each of the 4 no. units and there is proposed to be a larger area of open space / communal BBQ / playground area located at the north west end of the site.

- 2.3. A central bicycle parking area is proposed and a dedicated bin storage area located to the immediate west of the existing cottage is also proposed. Dedicated parking for each unit is proposed and the existing vehicular access point to the site from Church Road is proposed to be widened to 5.0 metres.
- 2.4. Servicing of the site comprises the existing connections to the public water supply and drainage networks. Surface water is proposed to be disposed of via on site soakpits.

3.0 Planning Authority Decision

3.1. Further Information

Prior to the issuing of a notification of decision the Planning Authority requested further information on the following issues:

- The retention of an archaeologist to undertake an archaeological assessment of the site.
- The submission of an archaeological impact assessment.
- A revised site layout that indicates car parking for all units in compliance with the development plan, details of the front boundary and entrance and details of a swept path analysis of the site.
- That the planning authority has concerns regarding the number of units proposed and the impact on residential amenity. Comment on the compatibility of the proposed use with the zoning of the site (RES) and the potential impact on residential amenity.
- Details of refuse storage for units.
- That the proposed shared soakaway system is not acceptable and alternative proposals required.
- Details of proposed management arrangements for the units.

- Clarification of the proposed use for the existing bungalow (holiday accommodation or caretaker).

The following is a summary of the information and alterations to the development were submitted in response to the further information request:

- An archaeological assessment report including the results of site investigations which indicated that no significant material present on site.
- An architectural impact assessment report relating to the impact on surrounding protected structures.
- Stated that car and cycle parking proposals are consistent with the provisions of the development plan. Revised site layout drawings FI-01 and FI-02 submitted.
- Revised drawing of the front boundary and entrance submitted (Drg. FI-03).
- Swept path drawing submitted (Drg. G1137-05).
- Clarified that the proposed new units would be managed by the onsite caretaker and that the units would be let by the applicants.
- Drawings FI-01 and FI-04 give details of the proposed storage for refuse.
- Stated that it is proposed that the 4 no. units would be in the sole ownership of the applicants and that therefore all issues regarding maintenance would be their responsibility. A solicitor's letter confirming this was submitted.

3.2. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for two reasons that can be summarised as follows:

- That the number of units, layout and level of noise likely to be generated by the development would be such that there would be a significant negative impact on the residential amenities of surrounding properties and provide a poor level of amenity for occupants of the development, in particular the caretaker dwelling, and a lack of adaptability to future standard residential use.

- That the proposed development would be prejudicial to public health by virtue of the shared surface water drainage system.

3.3. Planning Authority Reports

3.3.1. Planning Reports

Initial Planning Officer report identifies a number of areas of concern with regard to the nature of the use and impact on amenity. The concerns of the water services department are also noted. The basic design and internal space / layout of the proposed units is noted and considered to meet development plan standards. Further information is recommended. Second report subsequent to the receipt of further information recommends refusal of permission consistent with the Notification of Decision which issued.

3.3.2. Other Technical Reports

Water Services – Recommends refusal of permission on the basis of the proposed shared use of soakaways which can lead to maintenance and flooding issues.

Roads Department – Initial report recommends further information on a number of issues including parking provision, details of the boundary wall and entrance and a swept path analysis. Second report subsequent to further information response states that proposal is acceptable subject to specified conditions.

Environmental Health Officer – No objection subject to conditions.

Parks and Landscape Department – Initial report prior to further information and second report post submission of further information both recommend conditions.

3.4. Prescribed Bodies

Irish Water – No objections subject to conditions.

Development Applications Unit – Report prior to further information relating to archaeology states that an archaeological impact assessment should be undertaken.

Department of Defence – Submission noting the proximity of the site to Casement Aerodrome and the potential for a high level of noise.

3.5. **Third Party Observations**

None submitted to the Planning Authority.

4.0 **Planning History**

There are a number of planning applications referenced in the reports of the Planning Officer which can be summarised as follows:

Fingal Co. Co. Ref. SD17B/0033 – Permission granted for alterations and extension to existing bungalow on the appeal site including the construction of a 182 sq. metre two storey extension to the rear of the bungalow.

Fingal Co. Co. Ref. SD10B/0425 – Permission granted for a two storey extension to existing cottage.

Fingal Co. Co. Ref. SD07A/0403 – Permission refused for the demolition of the existing house on the site and the construction of a 368 sq. metre two storey dwelling. Permission refused for reason related to failure of design to have adequate regard to the setting and being visually incongruous.

Fingal Co. Co. Ref. SD06A/1019 – Permission refused by the planning authority for the demolition of the existing house on the site and the construction of a new two storey house. Refusal reasons relate to the development being out of character with the area in scale and design, and that the proposed development would interfere with the Saggart cemetery and church which are both protected structures.

5.0 **Policy Context**

5.1. **Development Plan**

The appeal site is zoned Objective RES under the provisions of the *South Dublin County Development Plan, 2016-2022*. The stated zoning objective is '*to protect and /or improve residential amenity*'.

The graveyard located to the north and west of the site is included in the record of protected structures (church site, stone head crosses, grave slab, ballaun and finial) as is the church located on the opposite side of Church Road from the appeal site.

Policies relating to residential layouts and development are set out at Chapter 2 of the development plan. The following are particularly relevant to the proposed development:

Policy H11 relates to residential design and layout.

Policy H13 relates to private open space.

Policy H14 relates to internal layouts and standards.

Policy H15 relates to privacy and security.

Policy H17 relates to residential consolidation.

Policy ET5 relates to tourism infrastructure.

5.2. Natural Heritage Designations

The site is not located in or close to any European sites.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the council have already granted permission on the site for a large two storey extension to the existing bungalow which would have a much greater impact on surrounding properties than the proposed development.
- The proposed units will not be visible from the public road.

- That the nature of the proposed use is such that the units will likely be vacant during the day. Night time supervision will be provided by the onsite caretaker. Noise will not be a significant issue.
- The applicants own and operate the adjoining Anvil Restaurant and appreciate the need to ensure good relations with surrounding property owners.
- That the concerns relating to the shared drainage systems appear to relate to the potential for the units to be individually sold off in the future. This is not the intention and a letter from the solicitors acting for the first party is submitted confirming that the intention is that the units would remain in the one ownership and be used for short term holidays lets. Letter also stated that the first party has no objections to the inclusion of conditions requiring this arrangement.
- That the site is conveniently located relative to Saggart Village and its amenities as well as visitor attractions in the wider area.
- Letter submitted from consulting engineers stating that the proposed drainage system is a sustainable design solution that is consistent with SuDS and the Greater Dublin Drainage Strategy.

6.2. **Planning Authority Response**

Response received from the Planning Authority stating that the decision is confirmed and that the report of the Planning Officer addresses the issues raised in the appeal.

6.3. **Further Responses**

The proposed development was referred to the Development Applications Unit of the department of Culture Heritage and the Gaeltacht, Failte Ireland, the Heritage Council and An Taisce for comment. None were received within the specified period.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the appeal:

- Zoning and principle of development
- Design, Layout and Amenity,
- Parking and Access,
- Site Servicing,
- Other Issues,
- Appropriate Assessment.

7.2. Zoning and Principle of Development

7.2.1. The appeal site is zoned Objective RES under the provisions of the *South Dublin County Development Plan, 2016-2022*. The stated zoning objective is 'to protect and /or improve residential amenity'. Under this land use zoning objective a residential use is identified in the development plan (Table 11.2) as permitted in principle.

There is no specific reference in the lists of either the 'permitted in principle' or the 'open for consideration' uses of tourist accommodation. In my opinion, in principle, the proposed tourist accommodation use is consistent with the residential zoning objective of the site.

7.2.2. The fact that the proposed use of the residential units would be for short term holiday home use has to be taken account of in the assessment of the residential layout and the impact on residential amenity and these are considered in the sections below.

7.2.3. The development plan contains a number of policies that are supportive of the principle of infill development / consolidation of residential areas and also the promotion of tourism and a sustainable tourism industry. Specifically, Housing policy 17, regarding residential consolidation, includes Objective 1 that aims '*to support residential consolidation and sustainable intensification at appropriate locations...*' and Objective 2 which aims '*to maintain and consolidate the County's existing housing stock through the consideration of applicationsbackland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 implementation*'. Economic and

Tourism Policy 5 Objective 1 seeks to support the development of tourism infrastructure and facilities and Objective 2 seeks *'to direct tourist facilities into established centres, in particular town and village centres, where they can contribute to the wider economic vitality of urban areas'*.

- 7.2.4. The form of development proposed would, in my opinion be consistent with the general aims of urban consolidation as set out in Policy H17 and section 2.4.0 of the Plan and the scale and context of the appeal site is such that some form of backland development is appropriate and feasible on the appeal site. The location of the site within an existing village centre, and the tourist related nature of the proposal is in my opinion consistent with the aims of Tourism Policy 5, in particular Objective 2.

7.3. **Design, Layout and Amenity,**

- 7.3.1. The proposed 4 no. new residential units to the rear of the existing cottage on the site are laid out with a pair of joined units each of which has its own small area of private amenity space. The overall height of the units has a maximum height of 4.9 metres to ridge height and the external finishes are a mixture of stone and render. In principle, the height and external finishes of the proposed units are considered to be acceptable and would not be such that they would have a significant negative impact on the residential amenity of surrounding properties. As discussed below however the proximity of the units to the site boundary is a cause for concern in terms of visual and residential amenity.
- 7.3.2. The South Dublin County Development Plan does not contain any specific standard for tourist accommodation, either in terms of the requirements for internal layout / sizes or external open space. In principle therefore the standards applicable to standard residential units are considered to be applicable. Some account may be had to the fact that the proposed use of the development is for short stay tourist accommodation, however in my opinion this has to be set against the protection of residential amenity, in particularly that of the permanent resident on the site who is proposed to occupy the caretaker cottage, and also to the fact that regard needs to be had to the potential future use of the units in the event that the tourist use does not provide successful or that a standard residential use is sought in the future.

- 7.3.3. The internal layouts of the units are consistent with the Housing Policy 14 of the development plan and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and Quality Housing for Sustainable Communities. The units measure approximately 81 sq metres each in the case of the proposed new development and the internal layout and room sizes are considered acceptable for holiday accommodation and such as would facilitate future conversion to standard full time residential use.
- 7.3.4. The main issue of concern with regard to the design and layout, and that which informs the first reason for refusal issued by the Planning Authority, relates to the relationship of the units to one another, the provision of private amenity space and the proximity of the development to the site boundaries and to the existing dwelling on the site. In my opinion, all of these issues are problematic in the proposed layout.
- 7.3.5. Private amenity space to serve the development is proposed in the form of patio and amenity space areas adjoining each unit. Other than in the case of the existing cottage and unit No.1, these spaces are not to the rear of the building line and are located such that there would not be a high level of privacy. In terms of area, the amenity areas proposed for units 1-4 measure approximately 25-30 sq. metres and are therefore significantly below the normal standard required for a two bedroom house. For the existing cottage, the area of private amenity space is approximately 50 sq. metres which is acceptable for a two bedroom unit. The level of private amenity space for the proposed units 1-4 may be acceptable for the purposes of a short term holiday let, however I would share the concerns of the planning authority regarding the implications of the proposed layout for the future adaptation of the units to longer term occupation. I note the comments of the first party on this issue and the statement that it is not the intention that the units would be sub divided by way of ownership however the potential future alternative use is in my opinion a valid consideration in the overall assessment of the proposed layout.
- 7.3.6. In addition to a limited amount of private amenity space, the relationship between the proposed units is also in my opinion problematic. In particular, the proposed unit No. 1 is located excessively close to the existing cottage with a minimum separation of 1.35 metres and only 1.8 metres between the bedroom window in unit 1 and the rear elevation of the existing cottage. Units 1 and 2 are also sited such that there would be significant potential overlooking between the bedrooms serving these units. It is

also noted that the layout of the private amenity space areas between the exiting cottage and units 1 and 2 is such that there would be direct overlooking of private amenity areas by other units (notably by bedroom 1 in Unit No. 2 over the private amenity space intended to serve Unit No.1).

- 7.3.7. An area of shared amenity space is proposed to be located at the far south west corner of the site and while not very clearly overlooked by other units, the location and layout of this space is considered acceptable especially for short term holiday accommodation.
- 7.3.8. I note the fact that part of the reason for refusal 1 cited by the Planning Authority relates to the potential for noise generation by the development and for there to be a negative impact on the residential amenity of adjoining properties. The proximity of the proposed amenity areas to the boundary with the existing residential property to the north west is noted in this regard, however given that there is proposed to be an onsite caretaker, it is considered that any noise related issues arising could be controlled by efficient on site supervision.
- 7.3.9. Overall, it is my opinion that while the principle of infill residential development on the site is acceptable, and that there is no objection to the scale of units or the principle of the short term holiday accommodation, the layout of the development is such that it is excessively close to existing buildings and site boundaries, does not provide an adequate level or standard of private amenity spaces and would result in an overall poor standard of residential amenity for future occupants of the development. While recognising and accepting the holiday nature of the proposed accommodation it is considered that more is required in terms of making the layout adaptable to future residential formats and that, in any event the layout is such that the level of amenity is substandard even for the proposed holiday accommodation. The omission of one unit from the development would appear to be required in order to resolve the issues raised above, however the consequent alterations required to the layout are considered to be such that they are not feasible to require by way of condition.

7.4. Parking and Access,

- 7.4.1. As part of the assessment of the development by the planning authority, the first party was requested to provide details regarding the parking provision to serve the development and also the proposals for access and circulation within the site by emergency vehicles. The revised layout submitted by the first party as part of the response to further information indicates two parking spaces to serve the caretakers cottage and a further 5 no. spaces to serve the four holiday units. This is considered to be an acceptable parking provision given the scale of the units proposed.
- 7.4.2. The access to the site is indicated on revised plans submitted as part of the further information response submitted to the planning authority and are considered to be acceptable. A swept path analysis of the entrance area was also submitted as part of the first party response to further information and is also considered to be acceptable.

7.5. Site Servicing,

- 7.5.1. The development is proposed to be served by connections to the public water and waste water systems and Irish Water have reported that there is no objection to the proposed development.
- 7.5.2. The issue of surface water attenuation and disposal was raised as an issue of concern by the Water Services Section of the council who did not consider that the proposed shared attenuation system between the house plots was acceptable as the system would not be taken in charge and there was no means to ensure shared maintenance of the system.
- 7.5.3. The response of the applicant to the request for further information and the first party appeal stress the merits of the proposed shared surface water collection system given the contours and levels of the site. The fact that it is not proposed that the individual units would be separated by sale is also stressed and a solicitor's letter to this effect is submitted. No formal proposals regarding a management company are submitted, rather it is stated that as the site will not be sub divided by way of sale that the owners will be responsible for the maintenance of the surface water drainage system.

7.5.4. While I note the response of the first party regarding site ownership and accept that it is not their intention to sub divide the site into separate ownerships or long term rental arrangements, to address the valid concerns raised by the Water Services section it would be appropriate that some more formal arrangement for management of the surface water infrastructure would be presented in any future application for a similar form of development on the site. Given the substantive reason for refusal relating to the residential layout and amenity issues, it is not proposed that this would be included as a separate reason for refusal.

7.6. Other Issues,

7.6.1. The graveyard located to the north and west of the site is included in the record of protected structures (church site, stone head crosses, grave slab, ballaun and finial) and the church located on the opposite side of Church Road from the appeal site is also included on the record. As part of the response to further information, the applicant submitted an Architectural Impact Assessment Report. The scale of the proposed development and its location on the site together with the proposed landscaping of the site is not, in my opinion, such that it would have a significant impact on the character or setting of either of these protected structures and specifically on the archway and crosses specifically referenced for the graveyard. .

7.6.2. The potential impact on archaeology was also the subject of further consideration as part of the request for further information issued by the Planning Authority. A report setting out archaeological testing was submitted to the Planning Authority and this states that there were no archaeological features of interest found during investigations. On the basis of the results obtained the Department of Culture, Heritage and the Gaeltacht have stated that there is no objection to the development and no further archaeological requirements. On the basis of the information on file, I do not consider that there are likely significant negative impacts on archaeology arising from the proposed development.

7.7. Appropriate Assessment.

- 7.7.1. The site is not located in or close to any European site and the form of development proposed is such that it would be connected to the public water and waste water networks. There are not therefore any direct pathways for foul water between the site and any European sites. The nature and scale of development comprising 4 no. additional units with a holiday accommodation / short term letting use is not such that it is a significant intensification of the use of the site.
- 7.7.2. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the number of units proposed, the proximity of these units to site boundaries and to the existing dwelling on the site, the inter relationship between the proposed units and potential for direct overlooking arising and the size and layout of the private amenity spaces, it is considered that the proposed development would constitute overdevelopment of the site, would seriously injure the residential amenities of adjoining properties and result in a substandard level of amenity for future occupants of the proposed development and would not adequately facilitate the future adaptation of the development to longer term residential occupation. The proposed development would therefore be contrary to the residential zoning objective for the site and be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

27th August, 2019