



An
Bord
Pleanála

Inspector's Report ABP-305162-19

Development	Day house and hardstanding mobile home
Location	Moonstone, Ballyedmonduff Road, Sandyford, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0364
Applicant(s)	Albert & Siobhan Price
Type of Application	Outline permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Albert & Siobhan Price
Observer(s)	1. Paul Staunton 2. Brendan Keegan
Date of Site Inspection	15 th November 2019.
Inspector	Hugh Mannion

1.0 Site Location and Description

1.1. The site has a stated area of 0.98ha and is located to the west of Ballyedmonduff Road, in Sandyford, County Dublin. West of the site the terrain rises towards Three Rock Mountain and the foothills of the Dublin Mountains. To the east is Stepside village, the M50 and the Irish Sea. Ballyedmonduff Road in the vicinity of the site entrance has no footpaths or cycle paths, has a broken white median line and public lighting. The OSI maps indicate a lane along the western boundary but this is a narrow pedestrian path. There is a slope within the site with the effect that the western end is about 20m higher than the eastern boundary along the public road. The access lane winds up through the site. In the lower part of the site not visible from the public road is a flat area where some machinery, motor vehicles, a small caravan and motor home are parked. Further up the application site is a clearing where the proposed day house and caravan bay would be located and further again and along the western boundary is a further clearing. Within the site there are extensive patches of gorse and bracken.

2.0 Proposed Development

2.1. The erection of traveller accommodation/day house and a hardstanding for an associated caravan/mobile home and waste water treatment plant at Moonstone, Ballyedmonduff Road, Sandyford, Dublin 18.

3.0 Planning Authority Decision

3.1. **Decision- Refuse permission because;**

- The proposed development is not traveller accommodation as defined in the County Development Plan and would materially contravene the zoning objective for the area “to protect and improve high amenity areas”.
- The applicants have not demonstrated a housing need in the area and the proposed development would consolidate a pattern of urban sprawl, lead to a demand for the uneconomic provision of services and community facilities

and be in conflict with the zoning of objective for the area set out in the county development plan.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planner's report recommended refusal of permission as set out in the managers order

3.2.2. **Other Technical Reports**

Transport Planning recommended requesting further information in relation to the sightlines available on the public road fronting the site which would meet DMURS standards.

Drainage Planning reported no objection subject to conditions.

Environmental Health Officer reported that the domestic waste water treatment system should comply with the EPA Code of Practice.

4.0 **Planning History**

Permission was refused under D19A/0298 for a "traveller accommodation" day house, hard standing for associated caravan/mobile home bay and associated waste water treatment system at Moonstone, Ballyedmonduff Road, Sandyford, Dublin 18.

5.0 **Policy and Context**

- 5.1. The **Sustainable Rural Housing Guidelines for Planning Authorities (DOEHLG 2005)** distinguish between urban and rural generated housing need. The Guidelines identify four rural area types; areas under strong urban influence, stronger rural areas, structurally weak areas and areas with clustered settlement patterns and indicate these on the Rural Area Types map referenced in the NSS.

5.2. **Development Plan**

5.3. The site is zoned objective G “to protect and improve high amenity areas” in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.4. Open Space, Travellers Accommodation are permitted in principle.

5.5. Allotments, Agricultural Buildings, Boarding Kennels, Carpark, Cemetery, Craft Centre/Craft, Shop, Childcare Service, Community Facility, Concrete/Asphalt (etc.) Plant in or adjacent to a Quarry, Cultural Use, Doctor/Dentist, Education, Garden Centre/Plant Nursery, Guest House, Home Based Economic Activities, Hotel/Motel, Industry-Extractive, Place of Public Worship, Public Services, Residential, Restaurant, Rural Industry-Cottage, Rural Industry-Food, Shop-Neighbourhood, Sports Facility, Tea Room/Cafe, Veterinary Surgery are open for consideration.

5.6. Travellers Accommodation is defined in the county development plan (8.3.12) as “An area with ancillary structures provided by the Council as a residential caravan park for occupation by members of the Travelling Community with their caravans and motor vehicles but excluding horses”.

5.7. **Policy RES16- Management of One-Off housing**

5.8. It is Council policy to restrict the spread of one-off housing into the rural countryside and to accommodate local growth into identified small villages subject to the availability of necessary services. It is recognised that much of the demand for one-off housing is urban-generated and this can result in an unsustainable pattern of development, placing excessive strain on the environment, services and infrastructure. However, it is recognised that one-off housing may be acceptable where it is clearly shown that it is not urban-generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape and where there is a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives).

5.9. **Policy objective LHB6: Views and Prospects**

5.10. It is the Council's policy to protect and encourage the enjoyment of views and prospects of special amenity value or special interest.

5.11. **Natural Heritage Designations**

Not relevant.

5.12. **EIA Screening**

5.13. Having regard to the nature of the proposed development a single dwelling unit and hardstanding for a caravan and the likely emissions therefrom 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 and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The planning acts require planning authorities to designate areas for the provision of traveller accommodation and the use of areas for travellers' accommodation. The planning authority has unreasonably defined such accommodation as accommodation provided solely by the planning authority itself. The planning authority is discriminating against the applicant in this case.
- This application is not for a house, since the day house is not a dwelling and does not have bedrooms. Nor is the proposed caravan a house. Therefore, policy RES16 in relation to housing need is irrelevant. Additionally, establishing a need to live in the area is an inappropriate requirement for traveller accommodation.
- Traveller accommodation is permitted in principle in areas zoned to protect and improve high amenity areas.
- The application site has an electricity connection. The applicants want to use an existing well for water and install a domestic waste water treatment system. A contribution towards other public services may be required as part of a grant of planning permission.

- The application site was previously use for quarrying and the proposed development will be recessed into the site and existing screening to avoid visual impact.

6.2. **Planning Authority Response**

- No further comment.

6.3. **Observations**

Submissions were received from Brendan Keegan and Paul Staunton.

- The site entrance onto Ballyedmonduff Road was originally granted to facilitate forestry development. The purpose will change.
- The entrance is not suitable for emergency vehicles.
- The proposed development would damage the character and amenity of a rural area zoned for high amenity in the County Development Plan.
- There are a number of traveller accommodation developments in the area.

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. **Development Plan zoning**

7.2. The site is zoned G – to protect and improve high amenity areas in the current County Development Plan. Permitted in principle is travellers' accommodation. Additionally, the Plan defines traveller accommodation as “an area with ancillary structures provided by the Council as a residential caravan park for occupation by members of the Travelling Community with their caravans and motor vehicles but excluding horses”.

7.3. The appeal makes the pint that its unreasonable to limit the meaning of traveller accommodation to that provided for the planning authority. Furthermore Section 10 of the Planning and Development Act 2000, as amended, requires planning

authorities to make provision for traveller accommodation and the use of particular areas for that purpose. By zoning the application site as being suitable for traveller's accommodation in principle there is a presumption in favour of this proposed development – being an application for traveller accommodation.

7.4. I consider that the Planning and Development Acts impose broad categories of responsibilities on planning authorities – one being to make a development plan for its administrative area. Within that overall responsibility and following public consultation and exercise of reserved functions by the elected members the planning authority has a broad latitude to determine policies and objectives for its administrative area. In the present case the planning authority has zoned land with the objective to protect and improve high amenity areas where traveller accommodation provided by the Council is permitted in principle. I conclude that it is reasonable, for the purpose of distinguishing between forms of development which might be permitted in particular areas to distinguish between traveller accommodation provided by the Council from traveller accommodation provided by private individuals for travellers. The proposed development is not traveller accommodation as understood in the development plan and therefore would materially contravene the zoning objective for the area.

7.5. Additionally, the planning authority has indicated suitable sites for traveller accommodation with a specific objective TA on land off Glenamuck Road to the southeast of this site on Landuse zoning map 9 attached to the current plan.

7.6. **Local Housing Need.**

7.7. The Sustainable Rural Housing Guidelines (DOEHLG 2005) distinguish between urban and rural generated housing need. The Guidelines identify four rural area types; areas under strong urban influence, stronger rural areas, structurally weak areas and areas with clustered settlement patterns. The site is in an area designated as under strong urban influence in the Rural Area Types map referenced in the guidelines. These areas are described as close to large cities and towns and major transport corridors with rapidly rising population and evidence of considerable pressure for housing.

7.8. The County Development Plan (objective RES16) seeks to restrict the spread of one-off housing into the rural countryside and to accommodate local growth in

identified small villages subject to the availability of necessary services. One-off housing may be acceptable where it is clearly shown that it is not urban-generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape and where there is a genuine local need to reside in a rural area. Section 8.2.3.6 refers specifically to areas zoned for high amenity, as in the present case, and adds the specific requirement that housing must be related to a housing need related to the applicant's principal employment in agriculture, hill farming or local enterprise directly related to the area's amenity potential. In addition, the applicant must demonstrate that the proposed development will have no potentially negative visual impact on views or prospects or natural or built heritage.

- 7.9. The appeal makes the point that the proposed development is not a conventional house and that the requirements to demonstrate a housing need related to the site/local area is unreasonable in the context of an application for traveller accommodation.
- 7.10. Because this is an application for outline permission the details included in the application are limited. Nonetheless I conclude that the application relates to residential accommodation notwithstanding the applicant's case that it is not a conventional house. Additionally, I do not agree that describing the application as traveller accommodation can exempt the application from establishing a local housing need in accordance with the policy objective 16 set out in the County Development Plan.
- 7.11. **Visual Amenity**
- 7.12. The County Development Plan zoning for the site references the objective to protect and or improve high amenity areas. Within these high amenity areas, a further objective (Policy objective LHB6: Views and Prospects) states that it is the Council's policy to protect and encourage the enjoyment of views and prospects of special amenity value or special interest and table 4.1.1 lists prospects to be preserved. One of these prospects is the Three Rock Mountain and Two Rock maintain from the Enniskerry Road (Sandyford/Kilternan area) and Sandyford village. Again, accepting that the nature of the application makes it somewhat difficult to anticipate the visual impact of development within the site on the surrounding area it is the case that the site provides panoramic views of the landscape in the area and further afield to

Dublin bay. It may be noted in this context that it is the applicant's responsibility to demonstrate that the proposed development would not undermine the amenity value of a view or prospect listed for preservation in the County Development Plan.

7.13. Traffic Safety

7.14. An observer makes the point that the site entrance is unsuitable for access by emergency vehicles. The speed limit on the public road at the site entrance is 50kmh which would require a sight distance of 70m. The application includes a drawing number 18-TA-01 which shows 70m sight distance achieved by the setting back of the existing sod bank/stone boundary wall. The planning authority's Transport Planning section reviewed the application and considered that the applicant had not demonstrated that the required sightlines were available and recommended requesting additional information. The planning authority did not raise this with the applicant.

7.15. There are no footpaths, cycle paths or pedestrian crossings on Ballyedmonduff Road in the vicinity of the site. I conclude that the application has not demonstrated that safe access to the public road can be achieved without major alterations to the site boundary. However having regard to the substantive reasons for refusal given by the planning authority and, generally, repeated below I do not recommend considering this issue further.

7.16. Waste Water Disposal.

7.17. The site is unsuitable for the disposal of domestic effluent because of granite bedrock at 1.5m below the surface. The application proposes to overcome this deficiency by the provision of a proprietary treatment system and polishing filter. I consider that the provision of these systems, which are energy and maintenance dependent, are unsustainable in the longer term and should be avoided where possible.

7.18. Having regard to the substantive reasons for refusal given by the planning authority and, generally, repeated below I do not recommend considering this issue further.

7.19. **Appropriate Assessment.**

7.20. Having regard to the nature and modest scale of the proposed development and the foreseeable emissions therefrom 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 permission be refused.

9.0 Reasons and Considerations

1. The Sustainable Rural Housing Guidelines for Planning Authorities (DOEHLG 2005) requires planning authorities in their Development Plans to distinguish between urban and rural generated housing need. It is an objective of the planning authority set out in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022 to restrict the spread of one-off housing into the rural countryside and to accommodate local growth into identified small villages subject to the availability of necessary services. The Board is not satisfied on the basis of the plans and particulars submitted with the application and appeal that the proposed development arises from a rural generated housing need and the proposed development would therefore contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, materially contravene an objective set out in the County Development Plan and be contrary to the proper planning and sustainable development of the area.

2. The application site is located in an area zoned to protect and improve high amenity areas in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022. The proposed development does not meet the criteria for traveller accommodation set out in the County Development Plan and is therefore not a form of development which is acceptable in principle within this zoning designation. The proposed development would, therefore, materially contravene the zoning objective for the area set out in the current County Development Plan and be contrary to the proper planning and sustainable development of the area.

Hugh Mannion
Senior Planning Inspector

18th November 2019