



Development

- a) To demolish the existing sub-standard bungalow on site.
- b) To retain the unauthorised footprint of foundations and concrete floor slab (63.5sq.m) as constructed, excluding the rear element (11sq.m) now to be re-constructed as permeably paved patio (11 sq.m).
- c) To construct a detached, flat roofed, two storey dwelling (127 sq.m) on the footprint (63.5sq.m) to be retained, including a side gate off Sandy Lane and all associated site works.

Location

Moss Cottage, Sandy Road, Rush, Co. Dublin.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F19A/0247.

Applicants

Daniela Sirbu

Type of Application	Permission and Permission for Retention.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant	Daniela Sirbu.
Observers	None.
Date of Site Inspection	14 th March 2020.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1 The subject site with an area of 0.02hectares is located on the corner of Sandy Road and Sandy Lane in Rush, Co. Dublin.
- 1.2. The existing development on site comprises of a cottage, Moss Cottage that is proposed to be demolished. The general character of the area is town centre, with a mix of residential and commercial uses. The built environment varies from commercial, two and single storey structures of varied architectural style and roof profiles. The site is bounded by two storey residential properties along both Sandy Road and Sandy Lane. On the opposite side of Sandy Road there are single storey flat roofed structures (commercial and residential).
- 1.3 Moss Cottage is not a Protected Structure and is not located within a designated Architectural Conservation Area.

2.0 Proposed Development

- 2.1 The proposed development comprises:
- The demolition of the existing cottage (Moss Cottage) on site.
 - Retention of the unauthorised footprint of foundations and concrete floor slab (63.5sq.m) as constructed, excluding the rear element (11sq.m) now to be re-constructed as permeably paved patio (11 sq.m).

- Construction of a detached, flat roofed, two storey dwelling (127 sq.m) on the footprint (63.5sq.m) to be retained, including a side gate off Sandy Lane and all associated site works.

2.2 Further Information (11th November 2019)

The following was included in the submission:

- Engineers report relating to the condition of the structure on site.
- Response to the request for a revised design and justification on why this is not considered appropriate.
- Application for Certificate of Exemption relating to Part V.

3.0 Planning Authority Decision

3.1 Decision

Refuse permission for the following reason:

The proposed development by reason of its design, in terms of style and flat roof profile fails to integrate with the adjoining area and is out of character with existing development in the area. The proposed development would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

3.2 Planning Authority Reports

Planners Reports

Following the receipt of a response to a request for further information, the Planning Authority issued a notification of a decision to refuse permission for the proposed development.

The Main concerns related to the design, in particular the flat roof element and the failure to integrated with the adjoining area.

3.3 Other Technical Reports

Transportation Planning, No objection subject to conditions.

Water Services. No objection subject to conditions.

3.4 Prescribed Bodies

Irish Water: No objection, subject to conditions.

3.5 Submissions

One submission was received by the planning authority from the occupiers of the adjoining property. The main points are summarised as follows:

- Loss of trees on the site.
- Unauthorised works.
- Loss of Light.
- Loss of View,
- Runoff.

4.0 Planning History

F15A/0346 refers to a grant of permission for a) single storey extension to front and b) first floor extension over entire structure with 2 no. dormer windows to front and box dormer to rear, c) new vehicular access to provide off street parking facility to front, d) dishing of existing footpath and e) all associated site works

5.0 Policy and Context

5.1. Project Ireland 2040 - National Planning Framework. This includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2 Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031

The RSES including the **Dublin Metropolitan Area Strategic Plan (MASP)** was adopted on the 3rd of May 2019.

Contains a strategic plan and investment framework to shape the development of the region.

5.3 Guidelines

The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

5.4 Fingal County Development Plan 2017-2023

Land Use Zoning Objective '**TC**' Town and District Centre with the objective *to protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*

The site is located in a Highly Sensitive Landscape area due to its proximity to the coast.

The site is located within the boundary of Rush Urban Framework. Is it not an identified 'opportunity site'.

The Development Plan contains policies and objectives relating to land use, residential development, parking etc. Policies and objectives of note in this instance include:

Objective DMS24 which refers to residential internal floor area and storage requirements

Objective DMS87 refers to private amenity space requirements. 4 bed require a minimum of 75sq.m.

Section 10.3 refers to Architectural Heritage. Objective CH37 refers to the retention, appreciation and appropriate revitalisation of the historic building stock.

Section 12.4 sets out Design Criteria for Residential Development

Objective DMS39 refers to infill development should respect the height and massing of existing residential units and that it should retain the character of the area, including features such as walls, pillars, etc.

Infill, Corner and Backland Sites

The development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be considered for this type of development.

Objective PM44 *Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*

Objective PM45 *Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.*

5.5 Natural Heritage Designations

None of relevance.

5.6 EIA Screening

Having regard to the nature and scale of the proposed development, consisting of the demolition of a cottage and the construction of a new dwelling on a serviced urban site, 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

A first party appeal was received which seeks to address the planning authority's reason for refusal. Amended drawing are submitted with the appeal to address the reasons for refusal. This includes replacing the flat roof with a pitched roof.

The grounds of appeal are summarised as follows:

- The area has a mixture of architectural styles and scales.
- There is precedent in the area for similar styles.
- The previous grant of permission on the site allowed the cottage to be subsumed into the larger development, a dormer dwelling.
- The applicant is of the view that the original design is appropriate for this location. Notwithstanding, A revised design with a pitched roof is submitted should the Board consider it more appropriate.
- The only objection to the development appear to be the flat roof. There were no traffic, public health, flood, residential amenity concerns raised.
- Permission is sought for a modest family home for the applicant.

6.2. Planning Authority Response

The Board is referred to the planner's report on file.

6.3. Observations

None.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

In response to the Planning Authority's decision to refuse permission the applicants have included revisions to the original design in the documentation that accompanied the appeal. I note that the scope of these changes would not require re-advertisement. This report, therefore, includes consideration of these proposed revisions.

The issue of appropriate assessment also needs to be addressed.

The issues can be dealt with under the following headings:

- Design & Residential Amenity.
- Appropriate Assessment.

7.1 Design & Residential Amenity

7.1.1 The planning authority's reason for refusal stems from the design, in particular the flat roof element, of the proposed development and its failure to integrate with the adjoining developments. The Planning Authority also focused on the status and condition of Moss Cottage and the justification for its demolition. There are no comments on file from the Council's Conservation Officer.

7.1.2 I note that Moss Cottage is in a significant state of disrepair, it is not on the Record of Protected Structure and the site is not located within a designated Architectural Conservation. The structure to be demolished in its current form does not contribute to the streetscape along Sandy Road or Sandy Lane and I have no objection to its demolition.

- 7.1.3 Permission is sought for a c.127 sq.m two storey contemporary style dwelling on a corner site. The Area Planner noted in their report that their main objection appears to relate to the design of the development, in particular the flat roof profile. I have examined the Fingal Development Plan and I have not found a policy or objective that precludes a contemporary design at this location. While I acknowledge that design is subjective, architecture that is contemporary and of its time rather than pastiche designs is encourage in appropriate settings. In this instance the proposed development is located on a corner site within the town centre, in an area that is characterised by a variety of architectural styles, scales and periods I am satisfied that a contemporary style structure at this location can be accommodated without detracting from the existing streetscape.
- 7.1.4 In an attempt to address the Panning Authority's reason for refusal, the applicants submitted revisions to the original design as part of the appeal. These included the replacement of the flat roof with a pitched roof. In my view the original proposal submitted to the Planning Authority is more appropriate.
- 7.1.5 I am satisfied that the current proposal reflects the height of the adjoining houses and, in my view, the overall design, scale and massing of the proposed development respects the predominant pattern of development in this area. It would not form a discordant feature on the streetscape at this location and would not detract from the character and architectural grain of the area.
- 7.1.6 Having inspected the appeal site and the surrounding area and having regard to the character and pattern of development in the area, I consider that the development is acceptable in the context of the amenities of adjoining properties. The overall design and scale of the proposed house has adequate regard to the existing pattern of development in the area and the residential amenities of existing dwellings, and, as such, would not result in an overbearing impact, overlooking, overshadowing or an unacceptable loss of privacy. The proposed development would not detract from the residential amenities of nearby properties.

7.1.7 The proposed development complies with the requirements and standards set out in the Development Plan. Ample private amenity space is proposed. Transportation Planning have no objection on traffic grounds.

7.2. Appropriate Assessment

7.2.1 Having regard to the nature of the proposed development and the location of the site in a fully serviced built up suburban area, 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

I recommend that permission be granted for the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the scale and design of the proposed dwelling and the provision of the Fingal Development Plan 2017-2023 it is considered that, subject to compliance with the conditions set out below, the proposed dwelling would not be considered overbearing, would integrate in a satisfactory manner with the existing built development in the area, would not form a discordant feature on the streetscape and would adequately protect the residential amenity of adjacent property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10. Conditions

1. The development shall be 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. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The flat roof elements of the property shall not be used as a terrace, balcony or for any similar purpose.

Reason: In the interest of residential amenity.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.

Reason: In the interest of residential amenity.

5. Water supply and drainage arrangements, including the attenuation and 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.

6. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

8. (i) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste.
- (ii) Prior to the commencement of development the developer shall submit for the written agreement of the Planning Authority details and methodology for the site excavation works. This shall include timeframes and proposals to deal with vibration and noise.
- (iii) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

- (iv) All necessary measures shall be taken by the contactor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

9. 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.

Dáire McDevitt
Planning Inspector

15th March 2020