



An
Bord
Pleanála

Inspector's Report

ABP-306931-20

Development	Construction of 3 short-let self-catering tourist accommodation units, use of existing bungalow as caretaker residential accommodation and ancillary landscape and site services works
Location	Church View, Church Road, Saggart, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0398
Applicants	Sandra Kelly & Denise Kelly
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Parties v Refusal
Appellants	Sandra Kelly and Denise Kelly
Observer(s)	None
Date of Site Inspection	08.06.2020

Inspector

Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is in Saggart village in south west Co. Dublin.
- 1.2. The site is occupied by a single storey house, which is externally finished in dash, and which is located toward the front of the site. The remainder of the site is surfaced with gravel and patchy overgrown grass, weeds and vegetation. There are trees and hedgerows around the side and rear boundaries. There is a single storey house adjacent to the south of the site and a 1 ½ storey house to the east. There is a laneway along the south west boundary of the site which accesses a cemetery and the north western boundary of the site is adjacent to the cemetery itself. Ground levels on site drop slightly from the front to the rear. The existing house/site is visible from the graveyard.
- 1.3. The site has an area of 0.1665 hectares.

2.0 Proposed Development

- 2.1. The application is for permission for:
 - 1 no. two-bed, single storey, detached, short-let, self-catering tourist accommodation unit (Unit A – No. 1),
 - 2 no. two-bed, single storey, semi-detached, short-let, self-catering tourist accommodation units (Unit B – Nos. 2 and 3),
 - Use of the existing bungalow as caretaker residential accommodation.
- 2.2. Unit A has a stated floor area of 85.6sqm and an indicated height of 4.94 metres. Unit B has a stated floor area of 171.2sqm (85.6sqm per individual unit) and an indicated height of 4.94 metres. Units A and B are to be externally finished in render and natural stone with a blue/black slate roof. The existing bungalow has a stated floor area of 58.85sqm and a maximum height of approx. 6.3 metres.
- 2.3. In addition to standard planning application plans and particulars the application was accompanied by an 'Architectural Assessment Report', a 'Landscape Rationale' and a 'Roads and Services Report'.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused the application for the following reasons:

1. Having regard to the number of units, the layout and proximity of the units to the site boundary, and the level of noise that would likely arise from the proposed development the proposal is considered overdevelopment and would seriously injure the amenities of property in the vicinity, and would provide a poor level of amenity for the self catering accommodation units. Furthermore, the future adaptability of these residential units to standard residential units, should they no longer be required for tourism, is questionable. Thus, the proposed development would be contrary to the RES zoning which seeks 'To protect and/or improve residential amenity' and contrary to the proper planning and sustainable development of the area.
2. Having regard to the proposed shared surface water drainage system, the proposal would be prejudicial to public health and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The Planning Report is the basis of the planning authority decision. It concludes that the reasons for refusal under the previous application have not been fully addressed. The number of units and layout would seriously injure the amenity of, in particular, the neighbouring residential development, and would also provide for a poor level of amenity for the proposed development. As such it would be contrary to the zoning objective and the proper planning and sustainable development of the area. The Water Services report stated that the shared soakaway was not acceptable. This was also an issue in the previous application and concerns have not been sufficiently addressed. The proposed development would fail to comply with the policies and objectives of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Water Services – A refusal is recommended. The development proposes to share a surface water attenuation soakaway which is not permitted. Soakaways must be within the ownership of each individual dwelling for maintenance and operational reasons. The Council will not take in charge developments where soakaways are shared and have the potential to be taken in charge. The development is prejudicial to public health and proper planning.

Roads Department – No objection subject to a condition.

Environmental Health Officer – No objection subject to conditions.

3.3. Prescribed Bodies

Department of Defence – The area may be subject to a high level of noise from aircraft operating in the vicinity of Casement Aerodrome.

Department of Culture, Heritage and the Gaeltacht – No objection subject to a condition relating to pre-development testing.

3.4. Third Party Observations

None.

4.0 Planning History

The relevant planning history of the site is:

P.A. Reg. Ref. SD18A/0321 / ABP Reg. Ref. ABP-304115-19 – Permission was refused in 2019 for the construction of 4 no. two-bedroom, single storey, semi-detached, short-let, self-catering tourist accommodation units and use of the existing two-bedroom bungalow as caretaker residential accommodation for the following reason:

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. 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.

P.A. Reg. Ref. SD17B/0033 – Permission was granted in 2017 for alterations to the existing bungalow and for a 182sqm two-storey three bedroom extension to the rear.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

- 5.1.1. The site is in an area zoned 'Objective RES; To protect and/or improve residential amenity'. While the Plan does not specifically reference short-let, self-catering tourist accommodation, analogous uses such as bed and breakfast, camp site, guest house and hotel/hostel are open for consideration under Table 11.2 (Use Classes Related to Zoning Objective 'RES').
- 5.1.2. The site, as well as a substantial area of Saggart village, is within the boundary of DU021-034 which is described as a 'village' in Schedule 1 (Record of Monuments and Places) of the Plan. The report from the Dept. of Culture, Heritage and the Gaeltacht describes RMP Ref. DU021-034 as a deserted medieval settlement as well as referring to RMP Ref. Nos. DU021-034001 (ecclesiastical enclosure) and DU021-034002 (church).
- 5.1.3. The site is also in close proximity to structures included in the Record of Protected Structures such as RPS No. 309 (Arch Surmounted by Cross at Cemetery Entrance) at the adjacent graveyard, RPS No. 325 (Limestone Church, Tower and Drinking Trough) and RPS. No. 328 (Church Site, Stone Head Crosses, Grave Slab, Bullaun & Finial) at the Church.
- 5.1.4. Chapters 4 (Economic Development & Tourism), 9 (Heritage, Conservation & Landscapes) and 11 (Implementation) are the most relevant chapters for the proposed development.

5.2. Natural Heritage Designations

- 5.2.1. The closest Natura 2000 site is Glenasmole Valley SAC approx. 5.4km to the south east. The closest heritage area is Slade of Saggart and Crooksling Glen pNHA approx. 1.9km metres to the south.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The number of units has been reduced from four under the previous application to three. Notwithstanding, the Council considers the proposal to be overdevelopment and would seriously injure the amenity of properties in the vicinity. Permission has already been granted on site under P.A. Reg. Ref. SD10B/0033 for an extension which would have a much greater impact on adjoining properties than the single storey units proposed. A large two storey detached house was permitted on a nearby backland site under P.A. Reg. Ref. SD19A/0110. The units will not be visible from the public road and will have minimal impact on surrounding properties. The applicants own and operate the adjoining Anvil restaurant and are acutely aware of the need to ensure good relations with neighbours. There have been no objections on the current or previous applications. It is emphasised that the application is not for standard residential units and there is no objection to conditions being attached

restricting use to that proposed. It is unreasonable to expect the design to be futureproofed in respect of any new use that might possibly be made.

- In relation to the second reason for refusal it is not the intention to sell off the units as separate houses and indeed would not be possible under the proposed planning application. It is the intention to always manage the facility as a single commercial entity where shared services would be the norm. A condition requiring the applicants to enter a legal agreement confirming same could be attached to any permission.
- The site is an ideal base for visitors wishing to explore the countryside. Tourism accommodation is much needed and would help take some pressure off traditional housing stock in the locality.
- An engineer's letter is submitted with the grounds of appeal which contends that the proposed drainage system is SuDS compliant and there is no evidence that a properly designed system would be prejudicial to public health. If it is the case the shared nature of the system is the concern then the assurances provided, reinforced by a condition of planning, should be adequate to allay the concern.

6.2. Planning Authority Response

The planning authority confirms its decision and the appeal raises no new issues.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning/Principle of Development
- Impact on Adjoining Property
- Residential Amenity for Occupants
- Architectural Heritage/Archaeology
- Surface Water
- Appropriate Assessment

7.1. Zoning/Principle of Development

7.1.1. The first reason for refusal in the planning authority decision specifically references the potential for the proposed tourist accommodation units to be converted to standard residential units. It is also a factor in the second reason for refusal. While I acknowledge the planning authority concerns in this regard, the planning application is for tourism accommodation and therefore should be considered on that basis. Should permission be granted and the units developed, any future planning application for a change of use would be considered on its merits at that time and any issues of concern such as private open space provision or a multi-user shared soakaway would be matters to be taken into consideration at that stage.

7.1.2. Section 11.1.1 (Land Use Zoning Tables) (v) (Other Uses) of the Plan states that uses not listed will be considered on a case by case basis in relation to conformity with the Plan, particularly in relation to the zoning objective of the site and its impact on the development of the County at a strategic and local level. I consider the proposed use to be similar to some uses specified as open for consideration in the zoning matrix i.e. bed and breakfast, camp site, guest house and hotel/hostel which generally also provide tourist accommodation. Policy ET5 Objective 1 of the Plan is to support the development of, inter alia, tourism infrastructure and facilities at appropriate locations

subjective to sensitive design and environmental safeguards. Policy ET5 Objective 2 is to direct tourist facilities into established centres, in particular town and village centres, where they can contribute to the wider economic vitality of urban centres.

- 7.1.3. Given the site location adjacent to Saggart village centre I consider that the principle of tourist accommodation units at this location is acceptable. I also consider that any potential for change of use of the proposed units to full-time residential units for sale or rent would be a matter for a separate planning application.

7.2. Impact on Adjoining Property

- 7.2.1. The first reason for refusal in the planning authority decision references the proposed number of units, the layout and proximity of the units to the site boundary, and the level of noise that would likely arise from the proposed development. The planning authority considered that the proposal would comprise overdevelopment, would seriously injure the amenities of property in the vicinity and the proposed development would be contrary to the RES zoning objective which seeks 'To protect and/or improve residential amenity' and contrary to the proper planning and sustainable development of the area.
- 7.2.2. I consider that the size of the site and its location adjacent to the village centre is such that some form of backland development is appropriate and feasible and consistent with the general aim of urban consolidation. The site is somewhat constrained by a public foul sewer which runs through the centre of the site and requires a wayleave either side of the sewer. The proposed development of three units is a reduction from the four units proposed in a similar application under P.A. Reg. Ref. SD18A/0321 / ABP Reg. Ref. ABP-304115-19. One detached unit is proposed between the rear of the existing house and the proposed semi-detached pair of units in lieu of a second pair of semi-detached units. The detached unit has a similar building line to the adjacent house to the north east. Render and natural stone are proposed as external finishes with a blue/black slate roof. I consider the units to be acceptable in terms of design.
- 7.2.3. The proximity of the proposed units to the site boundary is referenced in both the planning authority decision and the previous planning application on site. The units have a separation distance of 1 metre to the boundary. As the units are single storey

in scale no overlooking will occur. Unit 1 has a building line similar to that of the adjoining house to the east. Nos. 2 and 3 are located further away from the adjoining house but adjacent to the boundary. I do not consider the 4.9 metres maximum height to be excessive and the roof profile of the semi-detached units is such that a consistent 4.9 metres height is not provided across the entire length of both units. The garden area for the adjacent house is relatively generous and I do not consider the proposed units would result in an overbearing or shadowing impact such that it would result in an unacceptable adverse impact on the amenity of the garden area. I note that there is also a second property that shares this eastern boundary. As this is adjacent to the proposed communal amenity area there is no concern from any proposed building. I also note that there is currently a valid planning permission on site, granted under P.A. Reg. Ref. SD17B/0033, for a 182sqm two-storey extension to the rear of the cottage. This extension is 5.107 metres from the adjoining house at its closest point, as opposed to 3.348 metres under the current application, and it has an overall maximum height on the side elevation of 6.231 metres. The permitted footprint is also greater than that proposed for Unit 1. I do not consider the proposed unit would have any more impact on the adjoining property than the permitted extension.

- 7.2.4. The potential for noise generation is specifically cited in the first planning authority reason for refusal. However, given the presence of an on-site caretaker, I consider that any noise related issues could be controlled by effective on-site supervision.
- 7.2.5. Having regard to the foregoing, I do not consider that the proposed development would have a significant undue adverse impact on the residential amenity of adjoining property.

7.3. Residential Amenity for Occupants

- 7.3.1. The first reason for refusal in the planning authority decision considers that the development would provide a poor level of amenity for the self-catering accommodation units.
- 7.3.2. Each unit has a floor area of 85.6sqm and an indicated height of 4.94 metres. The floor areas are more than both the 70sqm cited in the 'Quality Housing for Sustainable Communities Guidelines, 2007' and 80sqm cited in Table 11.20 (Minimum Space Standards for Houses) of the County Development Plan 2016-2022. Each unit has an

area of private open space though, apart from the caretaker's house, none of these is to the rear of the house. A rear garden area/patio space of 93.8sqm to the rear of the existing house is provided which is more than the 55sqm cited in Table 11.20. This private open space provision is a significant increase from the previously proposed 56.21sqm and the distance to the closest tourism accommodation unit has been increased from 1.353 metres to over 7 metres. The private open space provision for the caretaker's house has, therefore, been significantly improved.

- 7.3.3. The private open space for the tourism units are provided by way of patios to the sides of the units. One patio has an area of 18sqm and the other two have areas of 33sqm. I do not consider this would be appropriate for permanent residents but for short-term self-catering units I consider it to be acceptable. Excessive overlooking of private open space and the proximity of bedroom windows of Units 1 and 2 under the previous planning application were noted as significant concerns. However, I consider this has been addressed in the current application and no direct overlooking would occur subject to appropriate patio screening.
- 7.3.4. There is a shared open space amenity area in the northern end of the site. While not overlooked by other units, except from the side of Unit 3, the location and layout of the space is considered acceptable for short-term accommodation. In addition, its shape limits alternative uses that could be made of this area.
- 7.3.5. Therefore, I consider that the proposed layout is acceptable and would not result in a substandard inter-relationship between the units on site. The floor areas and amenity spaces provided are acceptable and I consider an appropriate standard of amenity for short-term tourist accommodation would be provided.

7.4. Architectural Heritage/Archaeology

- 7.4.1. The site is located immediately adjacent to graveyard, within the boundary of a recorded monument and near three separate protected structures.
- 7.4.2. An 'Architectural Assessment Report' was submitted with the planning application which addresses the potential for the impact of the proposed development on RPS No. 309 (entrance arch and cross). The report concludes that impact would be very minimal and there will be a positive impact on the adjacent laneway when the semi-mature landscaping and ivy removal has been completed. I agree with this conclusion.

- 7.4.3. The Department of Culture, Heritage and the Gaeltacht has indicated no objection to the development subject to a condition requiring pre-development testing.
- 7.4.4. Having regard to the foregoing, and the fact that this was not a significant issue under the previous application on site, I consider there will be no undue impact on the architectural heritage or archaeology of the area.

7.5. Surface Water

- 7.5.1. The issue of surface water disposal formed the second reason for refusal in the planning authority decision.
- 7.5.2. I acknowledge the planning authority's valid concern in this regard in the event of a future change of use and potential for taking-in-charge. Notwithstanding, I do not consider this to be an issue under the current application which is for a short term, self-catering tourist accommodation development which is to be retained in the applicants' ownership and who will retain all responsibility for management of the entire site. I consider that any potential difficulty in this regard in the future is a matter to be addressed at that time. It is clear that the applicants are aware of the planning authority's concern in relation to this issue, and to the wider issue of a future change of use to permanent full time accommodation where there are deficiencies in private open space provision.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location remote from and with no hydrological pathway to any European site, 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. Having regard to the provisions of the South Dublin County Council Development Plan 2016-2022 and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the land use zoning objective of the area, would not seriously injure the residential amenity of adjoining property and would result in a satisfactory standard of amenity for proposed occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Reasons and Considerations

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

10.0 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. The proposed units shall be used for short-term tourist accommodation only and shall not be used as a place of permanent residence.

Reason: The occupation of the proposed dwellings on a permanent basis is unsustainable having regard to their deficient private open space provision.

3. (a) Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Details of all signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area and visual amenity.

4. 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. Prior to commencement of development, the applicant or developer shall enter into a water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than [1:500] showing –
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
 - (ii) Site boundary treatments and patio screens.
 - (iii) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
 - (c) A timescale for implementation [including details of phasing]

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

9. The internal road network serving the proposed development including junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works. Any gates shall not open outwards.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any proposed unit.

Reason: In the interests of amenity and public safety.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

Anthony Kelly

Planning Inspector

25.06.2020