



An
Bord
Pleanála

Inspector's Report

ABP-307316-20

Development	Construction of one dwelling with 1 off street parking space.
Location	The Copper Kettle, Main Street, Rathcoole, Co. Dublin.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0128
Applicant(s)	Garocal Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Garocal Ltd.
Observer(s)	Michael and Catherine Mcauley.
Date of Site Inspection	20 th August 2020.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located at the rear of The Copper Kettle café, which is itself located on Main Street, Rathcoole. The site is a backland plot, with a stated area of 0.04ha, and is also enclosed by Aubrey Manor to the west and north and by Barrack Court to the east. The site is currently overgrown and also contains some construction waste.
- 1.2. The site is elevated above the level of Main Street, as are adjoining lands to the east, west and north and is separated from the rear of The Copper Kettle by a low-level wall. There was an external deck area being constructed to the rear of the commercial unit at the time of inspection.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a detached, primarily two-storey, 2-bedroom house, together with associated developments and the provision of 2 replacement car parking spaces.
- 2.2. The house would have a gross floor area of 107.6sqm, measuring 7.74m to ridge level and incorporating a fully hipped roof. Whilst primarily 2-storey in nature, the house would incorporate a flat roof, single storey projecting element on the west side, which would also extend into the rear garden. A private rear garden measuring 60sqm would also be provided. 1 parking space would be provided for the proposed house.
- 2.3. The site would be accessed via Barrack Court, through a turning head which is currently used informally for parking. 2 replacement parking spaces would also be provided as part of the proposed development, adjacent to the south site boundary.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 19th March 2020, South Dublin County Council refused permission for 1 reason, as follows:
 1. *The proposed development, by reason of its scale and massing represents overdevelopment of the site and would be overbearing and dominant on the*

adjacent properties at Aubrey Manor. Thus, the proposed development would seriously injure the amenity of property in the vicinity and would be contrary to the zoning objective for the area which seeks 'to protect/and or improve residential amenity' and would therefore be contrary to the South Dublin County Council Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 10th June 2019 and 11th March 2020, which reflect the decision to refuse permission. The report dated 10th June 2019 recommended that Additional Information be sought in relation to a number of aspects of the proposed development, seeking 1) revised surface water drainage proposals, 2) an assessment of flood risk, 3) demonstration of written consent to discharge to a private foul sewer, 4) revised design proposals which address previous refusal reasons, 5) revised site layout, 6) clarification of the nature of access to the rear of The Copper Kettle, 7) a contiguous elevation drawing, 8) landscaping proposals and 9) a noise assessment. The report dated 11th March 2020 followed receipt of the Additional Information response and recommended refusal of permission, for 1 reason. The Notification of Decision to Refuse Permission is generally in accordance with the recommended reason for refusal.

3.2.2. Other Technical Reports

Water Services Department – Reports dated 21st May 2019 and 9th March 2020. The initial report requested additional information in relation to surface water drainage and flood risk aspects. The report dated 9th March 2020 outlined no objection, subject to a number of planning conditions. Floor levels within the proposed house are requested to be a minimum of 500mm above the highest known flood level for the site.

Roads Department – Reports dated 16th April 2019 and 9th March 2020, which both request a number of standard planning conditions as part of any grant of permission.

Parks & Landscape Services / Public Realm – Reports dated 10th May 2019 and 11th March 2020. Both reports requested a number of standard planning conditions as part of any grant of permission.

Environmental Health Department – Reports dated 13th May 2019 and 4th March 2020. The initial report requested additional information in relation to noise concerns. The subsequent report outlined no objection to the development subject to a number of standard planning conditions.

3.3. **Prescribed Bodies**

3.3.1. **Department of Culture, Heritage and the Gaeltacht** submission dated 30th May 2019 which requested that trial trenching should take place, prior to the commencement of any development.

3.3.2. **Irish Water** submissions dated 26th May 2019 and 14th March 2020, both of which requested a number of standard planning conditions as part of any grant of permission.

3.3.3. **Department of Defence** undated submission which outlines that aircraft associated with Casement Aerodrome may subject the area to a high level of noise.

3.4. **Third Party Observations**

3.4.1. A number of third party observations were received, the issues raised within which can be summarised as follows:

- Concerns regarding overdevelopment of the site.
- Concerns regarding overshadowing, overlooking and overbearing.
- Concerns regarding visual impact.
- Concerns regarding surface water and foul water drainage.
- Concerns regarding road safety, access, traffic and parking proposals.
- Concerns regarding security for neighbouring properties.
- Concerns regarding the likelihood of property devaluation.
- Concerns regarding noise during construction.
- Concerns that the site is better suited to use as open space, rather than for residential development.

4.0 Planning History

SD18A/0138 – (An Bord Pleanála Ref. ABP-302075-18) Permission refused on 23rd October 2018 for 2 No. 2-storey houses with off-street parking and relocated parking spaces from Barrack Court. Permission was refused for 3 reasons as follows:

1. The proposed development constitutes over-development on a restricted site, which would result in over-shadowing and overlooking of adjoining residential property, which would seriously injure the amenities or depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed relocation of two parking spaces within the Barrack Court residential development would represent a loss of amenity for residents entitled to use those spaces. The vehicular manoeuvres required of motorists using the relocated spaces would necessitate excessive reversing which would constitute a traffic hazard. The positioning of the relocated parking spaces would seriously injure the visual amenities of future residents of the new houses and the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and development of the area.

3. The Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that the applicant has established that the ground is suitable for disposal of surface water within rear garden soakaways. The proposed development would give rise to the risk of flooding of the site or adjoining sites which would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

SD03A/0286 – Permission granted on 10th March 2004 for a 2-storey detached house and relocated parking spaces from Barrack Court.

5.0 Policy Context

5.1. Development Plan

5.1.1. The subject site is zoned 'RES' under the South Dublin County Development Plan 2016-2022, with an objective *"to protect and/or improve residential amenity."*

5.1.2. Housing Policy H17 is directly relevant to the development, where it states:

"It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County."

5.1.3. H17 Objective 2 clarifies the application of this policy in relation to backland plots, outlining that it is an objective of the Council:

"To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation."

5.2. The site is also located within an Architectural Conservation Area, the building at the front of the site, which contains The Copper Kettle, is a protected structure, RPS Ref. No. 317, and the site is located within a zone of archaeological potential associated with Rathcoole Village, Ref. DU021-030.

5.3. Natural Heritage Designations

5.3.1. The subject site is not located within or adjacent to any designated European Site.

5.4. EIA Screening

5.4.1. Having regard to the limited nature and scale of the proposed development it is considered that 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

6.1.1. The grounds of appeal can be summarised as follows:

- The development would not result in any overbearing or dominant impact.
 - The development is an infill development, in a town centre location. It does not represent a significant addition to the area in terms of scale, height, density, volume, etc.
 - The development is in keeping with the scale, height and massing of surrounding buildings.
- Careful consideration has been given to minimising impacts on surrounding houses, particularly in response to the Planning Authority's request for additional information.
 - The proposal is for a small part-single and part two storey house sited in an infill site between two similar houses, both of which are larger and taller than the proposed.
 - The house comprises a single storey flat roof side area which has been designed to act as a physical buffer to the adjoining property at Aubrey Manor, which in turn is connected to a modest two storey house which takes its design, scale, height and massing from the adjacent Barrack Court terrace.
 - The 2-storey gable element is 8.9m away from the closest point of the 2-storey element of the Aubrey Manor house, which is itself also an effectively blank elevation.
 - As part of the additional information response a detailed shadow analysis was undertaken, which clearly demonstrated that the development did not have any negative impact on the adjacent properties.
 - The development does not cause overlooking or loss of privacy.
- The development would improve the amenity of the neighbouring properties by removing what is currently an unsightly derelict plot of waste ground and by providing 2 formal parking spaces in place of the informal spaces currently used.

- The Board's previous reasons for refusal on the site have been addressed.
 - The Board expressed concerns relating to overlooking and overshadowing. The current proposed development overcomes this, by omitting the second house and scaling back the proposed house.
 - In omitting a proposed second house, the revised design allows for 2 parking spaces with adequate room to park and manoeuvre.
 - The provision of soakaways serving the proposed house is adequate for the disposal of surface water drainage.

6.2. Planning Authority Response

- 6.2.1. Submission received dated 30th June 2020, stating that the Planning Authority confirms its decision and that the issues raised within the appeal have been covered in the planner's report.

6.3. Observations

- 6.3.1. Submission received from Michael and Catherine McAuley, 7 The Square, Aubrey Manor, responding to the first party appeal. The submission supports the Planning Authority's decision to refuse the application and raises concerns in the following areas:

- Drainage
 - The proposed soakaway pit is too close to the shared boundary and will flood the rear garden or damage the boundary wall.
 - Flood risk to property has not been resolved.
- Overshadowing and overlooking.
- Loss of amenity.
- Car parking.
 - The proposed parking layout is inadequate
 - Proposed parking for the house is insufficient and there is a possibility of disputes in relation to access to the 2 proposed replacement spaces.

- The proposed replacement parking spaces are inadequate to accommodate a van, as is the case with use of the existing parking spaces.
- The proposed pedestrian access to the rear of The Copper Kettle may lead to illegal parking in Barrack Court

6.4. Prescribed Bodies

6.4.1. An Bord Pleanála referred the appeal for comment to the following prescribed bodies, requesting comment on or before 30th July 2020:

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

6.4.2. No responses have been received.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Design, Layout and Impact on Neighbouring Properties;
- Impact on Architectural Conservation Area and Protected Structure;
- Surface Water Drainage;
- Flood risk;
- Other Issues;
- Appropriate assessment.

7.2. Principle of Development

7.2.1. The proposed development is consistent with the 'RES' zoning, as set out in the South Dublin County Development Plan 2016-2022, and also accords with H17 Objective 2,

which outlines that consideration will be given to backland development in existing residential areas, in appropriate circumstances.

7.3. Design, Layout and Impact on Neighbouring Properties

- 7.3.1. The form and appearance of the proposed house are different to those at Barrack Court, which it adjoins and would effectively become part of, in that it incorporates a hipped roof profile set below the ridge of the adjoining houses and it also incorporates different window proportions and elevational treatments. This design approach is acceptable, but I have serious concerns relating to the impact of the development on adjoining properties.
- 7.3.2. The two-storey element of the house would be set off the west side property boundary by 4m and set away from the rear of the west-adjoining houses at Aubrey Manor by 8.5m. Whilst I acknowledge that consideration has been given in the design stage to reducing the visual impact of the houses on these properties, I consider the two-storey element would have a serious overbearing impact, presenting a 5m high blank wall in close proximity to the neighbouring houses. The affected properties also have very shallow rear gardens, c. 4.5m deep, and are vulnerable to any development on the site.
- 7.3.3. The proposed house would also directly overlook the rear garden of the north-adjoining property, from a rear-facing first floor bedroom which would be set back from the site boundary by 7.6m. There is already overlooking of this garden from a house within Aubrey Manor, but from a review of the planning application drawings associated with that development, it appears that the windows which overlook this garden are 2 bathroom windows and 2 hall windows. The level of overlooking from the proposed house would therefore be more intense, given the use of the room as a bedroom.
- 7.3.4. The rear garden of the subject site would also be overlooked by the west-adjoining houses but, similarly, the extent of such overlooking is mitigated by the nature of the rooms served by east-facing first floor windows.
- 7.3.5. I also have concerns relating to existing and proposed site levels and the potential that existing boundary treatments would need to be raised in order to maintain privacy between properties. It was evident on my inspection that the site is raised above the level of Main Street and it also appeared to be raised above the level of Barrack Court,

where I estimated the shared boundary wall to be approx. 1.5m high. The wall appeared to be approx. 1.3m high, measured from within the site. The Soakaway Design Report, prepared by Trinity Green as part of the further information response, also outlines that there is a 500mm layer of made ground on the site. Any requirement to raise boundary walls in order to maintain privacy would impact on all adjoining properties.

- 7.3.6. I considered requesting a topographical survey of the site and details of proposed site levels but decided that clarification of this issue would not overcome my concerns in relation to the overbearing and overlooking impacts of the development. This may however be a matter for the Board to consider, should they be minded to grant permission.

7.4. Impact on Architectural Conservation Area and Protected Structure

- 7.4.1. I do not consider the development would have any impact on the Architectural Conservation Area, given its backland location and the level of enclosure provided by residential development which is of a similar scale.

- 7.4.2. I also do not consider the development would have any impact on the Protected Structure to the south. It is of similar scale and design to other recently built houses in the immediate area.

7.5. Surface Water Drainage

- 7.5.1. The development incorporates a proposed soakaway within the rear garden, which the application documents state has been designed in accordance with BRE Digest 365 and following on-site infiltration testing. The observer has raised the issue of flooding and the proximity of the soakaway to the shared boundary wall.

- 7.5.2. I would question the level of separation from both adjoining properties and the proposed house, given the proposed soakaway dimensions and the proposed site layout. However, in saying this, I note that the Trinity Green Soakaway Design Report outlines that the site is suitable for a soakaway and there appear to be other options available to the applicant, in terms of the location of a soakaway on the site. I also note that the Planning Authority's Water Services Department had no concerns in relation to a proposed soakaway on the site. Should the Board be minded to grant permission, this issue could be controlled by condition.

7.6. Flood Risk

- 7.6.1. I note that the Planning Authority's Water Services Department requested that the house should incorporate a finished floor level a minimum 500mm above the highest known flood level for the site. The site is located in Flood Zone C and it is elevated above the level of land to the south, at a similar topographical level to the east and west-adjointing lands. I do not believe such significant raised finished floor levels are required.

7.7. Other Issues

- 7.7.1. The development incorporates a pedestrian access to the rear of The Copper Kettle, the need for which is unclear. The application drawings identify that a rear access would be retained, but there is currently no rear access to the site. This access may lead to anti-social behaviour issues, for example related to use of access as a service access or use of the parking spaces as part of the commercial use. There is no stated need for the pedestrian access and I consider it should be omitted, should the Board be of a mind to grant permission for the development.
- 7.7.2. The parking layout for the relocated parking spaces is narrow and is likely to require multiple manoeuvres in order to exit a space. However, there is some additional space that could be incorporated adjacent to the south site boundary, to provide an improved arrangement, should permission be granted. I also note that the Planning Authority's Roads Department had no concerns in relation to the parking layout.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development, which is a small-scale residential development, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider 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 for the proposed development be refused, for the following reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. The proposal constitutes overdevelopment of a restricted site, which would have an overbearing and dominant impact on adjoining residential property to the west and which would directly overlook the adjoining residential property to the north, to a degree which would unacceptably reduce privacy levels. The development would therefore seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Barry O'Donnell
Planning Inspector

14th September 2020