



Development

- a) Retention of original garage (1997), and its subsequent conversion (2020) to habitable accommodation (56 sq m), ancillary to the main dwelling, including proposed alterations.
- b) Upgrading of the on-site wastewater system from the current septic tank and percolation area to an EPA (2009) compliant wastewater treatment system.

Location

Auckland Lodge, Mine Hill Lane,
Ballycorous, Dublin 18.

Planning Authority

Dun Laoghaire-Rathdown County
Council

Planning Authority Reg. Ref.

D20A/0441

Applicants

Rosemary & Robert Allison

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Observers

None

Date of Site Inspection

8th December 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The site comprises of a stated area of 0.53 hectares located to the east of Mine Hill Lane road, in Ballycorous, Co. Dublin. Mine Hill Lane is located to the south of the R126 Kiltiernan to Shankill Road. The area is characterised by a mix of detached houses on generous sized sites, agricultural development and a mix of old industrial uses including mines. A right of way from the public road provides access to the south of the site. A significant amount of driveway provides access to the site and also to the areas of land to the north. The house is effectively encircled by driveway/ hard standing.
- 1.2. On site is a detached two-storey house with a distinctive mix of mansard type roof and standard two-storey element to the centre of the dwelling. To the rear/ north is a detached unit that appears suitable for habitable use, the subject of part of this appeal. Several sheds, some of which appear to be recently constructed, and shipping containers were located throughout the site. In addition, there were a significant number of vehicles of various types/ sizes parked throughout the site.
- 1.3. The site is well screened from public view by mature hedgerows and planting. Areas of well-maintained landscaping are provided throughout the site.

2.0 Proposed Development

The proposed development consists of:

- a) The retention of an originally detached garage and its conversion for habitable use. This unit is ancillary to the main dwelling and has a stated area of 56 sq m. The original date of the garage is given as 1997 and was converted in 2020.
- b) The upgrading of the current wastewater treatment system which consists of a septic tank and percolation area to a EPA, 2009 compliant wastewater treatment system.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for two reasons as follows, following the receipt of further information:

1. 'Having regard to the zoning of the site 'B' with the objective to 'protect and improve rural amenity and to provide for the development of agriculture', Policy RES16 and Section 8.2.3.6 (vi) Family Member/ Granny Flat – Rural as outlined in the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the proposed development to be retained and proposed development are not in accordance with Council policy for residential development in rural areas and does not comply with section 8.2.3.6. (vi) and would be in conflict with the zoning objective of the site. The proposed development and development proposed to be retained would therefore be contrary to Dun Laoghaire-Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
2. Having regard to Section 8.2.3.6. (ix) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, the proposed development does not meet the requirements for the treatment of effluent from the proposed wastewater treatment system for two dwellings/ 'Family Member/ Granny Flat' on site. The proposed wastewater treatment system is therefore considered contrary to Section 8.2.3.6. (ix) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and as such the proposed development would be prejudicial to public health. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and set a future undesirable precedent'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report reflects the decision to refuse permission for the converted garage and proposed wastewater treatment system upgrade. The Planning Authority Case Officer included in her assessment, the retention of a storage shed,

and garage located to the rear/ north of the house. These were not included in the public notices but are indicated on the submitted plans etc. and the Planning Authority Case Officer suggests that these could be addressed by way of a further information request.

3.2.2. **Other Technical Reports**

Environmental Health Officer: Refusal recommended for both elements of the development. Firstly, the converted garage is not provided with a separate treatment system in accordance with EPA Code of Practice, 2009 and secondly, the proposed wastewater treatment system does not demonstrate compliance with the EPA Code of Practice, 2009 in relation to minimum required separation distances.

Drainage Planning – Municipal Services Department: No objection subject to condition. A note is included that the proposed wastewater treatment system be referred to the Environmental Health Officer for comment/ report.

3.2.3. **Prescribed Bodies Report**

None.

3.2.4. **Objections/ Observations**

None.

4.0 **Planning History**

None.

5.0 **Policy and Context**

5.1. **Development Plan**

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned B ‘To protect and improve rural amenity and to provide for the development of agriculture’.

The western part of the site is located within an area of archaeological potential and Record of Monuments and Places ref. no. 026-117 refers to this. This area refers to

a mining complex that may contain protected structures, though these would not be on the subject site.

- 5.1.2. Chapter 2 – ‘Sustainable Communities Strategy’ of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, includes section 2.1 ‘Residential Development’. Section 2.1.4 refers to ‘Rural Housing’ and the requirements for such development.

2.1.4.1 Policy RES16: Management of One-off Housing*

‘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)’.

The following refers to lands with the zoning objective ‘B’:

‘Within areas designated with zoning Objective ‘B’ (“to protect and improve rural amenity”) dwellings will only be permitted on suitable sites where:

- Applicants can establish to the satisfaction of the Planning Authority a genuine need to reside in proximity to their employment (such employment being related to the rural community), or
- Applicants can establish to the satisfaction of the Planning Authority a genuine need for an additional dwelling in the rural area and who are native to the area due to having spent substantial periods of their lives living in the area as members

of the rural community and have close family ties with the rural community (in Accordance with Section 3.2.3 ‘Rural Generated Housing’ of the ‘Sustainable Rural Housing Guidelines for Planning Authorities’ (2005)).

(Refer also to Section 8.2.3.6 and Appendix 11 – Rural Design Guide).

5.1.3. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to ‘Principles of Development’ and Section 8.2.3.6 refers to all aspects of Rural Housing. A ‘Rural Design Guide’ is included in Appendix 11.

5.1.4. I also note Section 8.2.3.6, subsection (vi) ‘Family Member/Granny’ – Rural and which states the following:

‘A family flat is a temporary self-contained living unit with one or (maximum) two bedrooms for a member of the immediate family to reside in. Family flats can provide a short-to-medium term solution to housing needs within the rural area, particularly in cases where an applicant cannot satisfy rural housing policy or where a native is required to return to live in the rural area in order to care for family members.

In general a family flat would consist of extending/adapting an existing family dwelling to accommodate their needs. In such cases, a direct link (in the form of an internal door) to the main dwelling house would be maintained and the unit, when no longer in use as a family flat, would be subsumed back into the fabric of the main dwelling.

In exceptional circumstances, the Planning Authority may accept the principle of renovating/restoring and changing the use of all/part of an existing outbuilding or structure within the curtilage of a family dwelling for use as a ‘family flat’. Any such proposal would be strictly controlled and would be assessed on a case-by-case basis. All such developments considered to be acceptable by the Planning Authority must enter into a legally binding agreement under the provisions of Section 47 of the Planning Act in respect of the use of the proposed family unit remaining as such and will not be permitted to be sold/let separately from the main dwelling.

A family flat will be subject to the following criteria:

- the flat must not exceed 50 sq.m. in floorspace and/ or comply with rural extensions guidance above.
- the site must be suitable for development.
- the flat must be occupied by an immediate family member and a legal agreement - under the provisions of Section 47 of the Act - to this effect may be sought by the Planning Authority. When no longer in use as a family flat, the unit must be subsumed back into the fabric of the main dwelling house.
- The flat must be capable of being connected to the existing wastewater treatment system on the site. Where such a system is not sufficiently sized or operating efficiently it must be capable of being replaced with a suitable wastewater treatment system to serve both the existing house and family flat.
- The creation of an additional vehicular access will not be considered acceptable and the existing access and parking on site must be capable of accommodating any additional vehicular movements, or upgraded as deemed necessary by the Planning Authority’.

5.2. National Guidance

- 5.2.1. The ‘Sustainable Rural Housing – Guidelines for Planning Authorities’ (April 2005) is relevant to this proposal as they set out the need for rural housing in appropriate/ sustainable locations.
- 5.2.2. ‘National Planning Framework – Project Ireland 2040’ recognises the importance of rural Ireland.

National Policy Objective 19 is relevant to this development:

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

5.3. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicants have appealed the decision of Dun Laoghaire-Rathdown County Council to refuse permission for this development.

Mains grounds of appeal include:

- The Allison family are well established in the local community.
- The Planning Authority Case Officer and Environmental Health Officer (EHO) made a number of errors in their assessment of this development.
- The EHO referred to the lack of a separate wastewater treatment system for the converted garage; this is not required as the structure is ancillary to the main house.
- The EHO refers to insufficient separation distances between the proposed treatment system and existing structures. The EHO may have wrongly considered a surface water drain to be a treatment system. This is clearly indicated on the submitted plans and revised plans have been submitted to further indicate this – AL-R7D have been submitted indicating some additional measurements/ details.
- The converted unit is to provide for a single-bedroom and kitchen family flat for the applicants’ son.
- A family flat is proposed and not a separate unit, which is what was considered in the assessment by the Planning Authority Case Officer.
- It is accepted that the unit at 56 sq m is larger than the maximum permitted at 50 sq m. Drawing AL-R4D has been submitted to address this issue; this will revise

an upper floor storage area to form part of the adjoining garage and not be part of this unit.

- All lands in the applicants' ownership are indicated on the submitted plans and is outlined in blue. No other land is in their ownership.
- The Planning Authority Case Officer's reported that the development would not negatively impact on the residential and/ or visual amenity of the area.
- In conclusion, the development as submitted should have considered in terms of being a family flat and therefore the issue of separate wastewater treatment system and compliance with the requirements for a new rural house do not arise.

Additional drawings/ plans have been submitted in support of this appeal.

6.2. **Planning Authority Response**

The grounds of appeal do not raise any new matters, so no additional comment is made.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Nature of Development
- Foul Drainage
- Impact on Residential Amenity
- Other issues
- Appropriate Assessment Screening

7.2. **Nature of Development**

7.2.1. The site is subject to Zoning Objective 'B' Rural Development in the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022. The Planning Authority issued two reasons for refusal and refer to the non-compliance with development plan requirements for residential development in a rural area and secondly the development does not comply with wastewater treatment requirements.

- 7.2.2. There are a number of confusing aspects to this development in that the Planning Authority Case Officer also refers to other structures that are not included in the public notices, the assessment of the structure is considered in terms of a family flat/ separate dwelling and the location of the treatment system has also given rise to concern. Going strictly by the public notices, the development consists of the retention of a detached garage, converted to habitable use and is ancillary to the main house and secondly the proposed upgrading of the wastewater treatment system. The application form only refers to the converted garage as for retention and which has a stated floor area of 56 sq m and the submitted cover letter only refers to this structure and the wastewater treatment system upgrade. The submitted plans do indicate that a garage and store are included in the area to be retained. In the interest of clarity, I will only consider the development as described in the public notices.
- 7.2.3. The appeal makes clear that a second dwelling is not proposed for this site and it appears that a family flat is proposed here. It is accepted that the ground floor of the family flat is 6 sq m in excess of the maximum acceptable floor area of 50 sq m and revised plans (AL-4RD) have been submitted to address this issue – additional area is given to the garage/ store and reduces the habitable floor area. The applicants have not demonstrated how this unit is ancillary to the main body of the house and little information is provided for the duration of need/ use following such a period of need.
- 7.2.4. Normally family flats are directly attached to the structure of the house with an internal connection between the two, which is not the case here. The Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 allows in exceptional circumstances, for the conversion of an outhouse and the applicants have indicated that a housing need in 2019/ 2020 as such a reason.
- 7.2.5. I am not satisfied that the applicants have adequately demonstrated compliance with Section 8.2.3.6 (vi). From the site visit, the subject unit did not appear to be ancillary to the main house and could operate independently only sharing the site access/ driveway and wastewater treatment system. Whilst the garage may have been ancillary to the main house, the unit proposed for retention reads as a separate unit and it would be difficult to integrate it into the main body of the house. No details have been provided as to the long term intentions for the use of this structure and in

general I consider that insufficient supporting information has been provided to justify the retention of this family flat.

7.3. Foul Drainage

- 7.3.1. The second reason for refusal referred to the wastewater treatment system and non-compliance with relevant EPA Code of Practice. The applicants have provided an additional site layout plan in support of the appeal – AL_R7D, which clearly indicates the location of the wastewater treatment system, tertiary sand filtration system and percolation area. A measurement of these in relation to the existing house and the converted garage, find that these are all over 7/ 10 metres as required under 'Table 6.1. Minimum Separation Distances in Metres' in the 'Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses'. The proposed 'Oakstown' wastewater treatment system has a Population Equivalent (PE) of 8, the expected PE is 7. The submitted details indicate that the proposed treatment system and tertiary system is suitable for this site.
- 7.3.2. I am satisfied that the site can accommodate the upgraded wastewater treatment system. I note the submitted Environmental Health Officer report and the only concerns referred to the lack of suitable separation distances, which I disagree with, and secondly the development does not provide for a separate wastewater treatment system for the converted garage. This is not necessary as the applicants have outlined that they do not propose a separate unit and what is to be retained is a family flat. As a family flat is for a temporary period of time, a single integrated wastewater treatment is all that is required.

7.4. Impact on Residential Amenity

- 7.4.1. The location of the structure on site will ensure that it does not negatively impact on the visual amenity of the area; the site is well screened/ suitably orientated from public view.
- 7.4.2. The retention of this unit as a family flat will not negatively impact on adjoining residential units in terms of overlooking leading to a loss of privacy or overshadowing leading to a loss of daylight. Adequate car parking is available on site and as already reported, the development has the use of the existing site entrance and driveways.

7.4.3. Room sizes are generally acceptable. The living room is on the western side of the house and will benefit from good afternoon/ evening sun depending on the time of the year. There are a number of unusual aspects to the layout but these are matters of choice/ subject to consideration under the Building Regulations. Private amenity space is not specifically indicated and will be shared with the existing provision for the main house.

7.5. Other Issues

7.5.1. As already reported, I have only considered the development as described in the public notices. Other structures are included within the area outlined for retention on the submitted plans. As they are not described in the public notices, third parties if so interested, are unlikely to comment on them. No specific reference is made to the garage/ shed in the submitted cover letter or appeal statement. From the site visit, some of these appeared to be have been recently constructed, possibly within the last year, and the garage in particular may be a replacement for the subject converted unit. A number of shipping containers were observed on site and I would caution that the cumulative total floor area would exceed most exemptions for such structures. This is an issue for the Planning Authority to consider and does not form part of this appeal.

7.5.2. The garage/ covered parking area is referred to once though when the applicants propose to reduce the floor area of the converted unit from 56 sq m to 50 sq m by reallocating part of the floor area to the garage/ covered parking area. This increases the amount of ancillary storage area that does not form part of the development, previously this storage formed part of the attic space of the family flat/ ancillary unit. The submitted cross section of the converted garage indicates that this attic space is not suitable for habitable use due to the lack of necessary floor to ceiling heights in this space.

7.6. Appropriate Assessment Screening

7.6.1. Having regard to the nature and scale of the development and the location of the site and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the retention of the garage, and its subsequent conversion to habitable accommodation described as ancillary to the main dwelling on site, for the following reason and considerations as set out below.
- 8.2. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and the requirements of the ‘Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses’ (EPA 2009), it is considered that, subject to compliance with the conditions set out below, the proposed upgrading of the on-site wastewater system from the current septic tank and percolation area to an EPA (2009) compliant wastewater treatment system development would not seriously injure the amenities of the area. I recommend that planning permission be granted for the upgrading of the wastewater system and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Reason and Considerations

1. The proposed detached family flat would materially contravene the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 - 2022 and specifically Section 8.2.3.6 (vi) which seeks to ensure that family flats are linked directly to the main dwelling house and are temporary in nature. In exceptional circumstances, the Dun Laoghaire-Rathdown County Development Plan 2016 - 2022 allows for the conversion of use of outhouses etc in rural areas. Insufficient justification for such a conversion has been provided by the applicants and they have failed to demonstrate compliance with all relevant aspects of Section 8.2.3.6 (vi) of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development of a replacement wastewater system shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 24th of June 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the Planning Authority on the 24th day of June 2020 and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of the completion of the wastewater treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 hours on Saturdays and not at all on Sundays and public</p>

	<p>holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
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Paul O'Brien
Planning Inspector

8th January 2021