



An
Bord
Pleanála

Inspector's Report ABP 311601-21

Development	Replacement dwelling and associated site works.
Location	Joinery Mutton Lane/Tibradden Lane, Rathfarnham, Dublin 16.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0670
Applicant	G. Farrell, R. Farrell & D. O'Donnell
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. refusal
Appellants	G. Farrell, R. Farrell & D. O'Donnell
Observer(s)	None
Date of Site Inspection	23/03/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.72 hectares, is located on the western side of Mutton Lane, in a predominantly rural area of Rathfarnham c.2.5km southeast of Ballyboden and c.1.2km south of the M50.

The site forms part of a larger holding on which there is a joinery works (Gerry Farrell Joinery), with a craft/woodwork school and leather workshop, café and petting farm (Hazel House). All are accessed from Mutton Lane. There is one dwelling within the holding. Blackberry Lodge is a single storey, flat roofed structure with pedestrian access, only, from Mutton Lane. The said dwelling backs onto a two storey dwelling known as Delmaine Cottage which has vehicular access to the south from Mutton Lane. The latter is not within the land holding.

The site where the dwelling is proposed to be located is to the south-west of the other buildings to be accessed from Tibbradden Lane. The site slopes down from south to north. The roadside boundary is delineated by an existing field entrance and hedgerow.

2.0 Proposed Development

New 178 sq.m. 2 storey dwelling with a ridge height of 7.4 metres. It is to connect into the existing waste water treatment plant serving the overall holding. The dwelling is to replace a 47 sq.m., 2 bedroom dwelling located to the front of Delmaine Cottage. It is proposed to retain the said single storey unit for use as an office and storage.

The applicants are the owners and occupiers. One of the owners is the farm manager/administrator.

The application is accompanied by:

- Planning Report
- Design Statement
- Structural Report
- Site Characterisation Form (for system installed).

- Screening Report for Appropriate Assessment (for overall development).

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for one reason which can be summarised as follows:

The applicant has not demonstrated a genuine need for an additional dwelling in this rural area and would contravene materially policy RES16 of the current development plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Whilst it is accepted that the applicant has a genuine need to reside in proximity to her employment it is considered that this need has already been met through her current residence in Blackberry Lodge. Therefore, there is no requirement for an additional dwelling in the rural area.
- The applicant is not proposing to demolish the existing dwelling. It is to be used as offices. It is considered that the proposed development would see the loss of a habitable dwelling and the provision of an additional dwelling leading to further ribbon development in a rural area under strong urban influence.
- The application has not addressed the reason for refusal under D20A/0965.
- The dwelling design is acceptable and can be assimilated into the landscape.

A refusal of permission for one reason recommended.

3.2.2. Other Technical Reports

Drainage Division has no objection subject to conditions.

EHO Planning recommends further information including details on the location of the wastewater treatment system and potability of water supply from the well.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

D20A/0965 – permission refused February 2021 for change of use from a residential 2 bed unit to office administration and storage use on Mutton Lane and construct a new 1 ½ storey house with access off Tibbradden Lane .

ABP 301387-18 (D17A/0469) – retention permission granted for extension to barn for use as an established craft and joinery workshop, use of stone farm building ‘A’ as a café and craft shop, use of part of farm building ‘B’ as café kitchen and joinery/craft teaching area (34.8sq.m), the continued use of external farm yard as outdoor seating area and exhibition area and car parking for 30 cars. Permission was granted for toilet facilities, upgrading of existing vehicular entrance and a new wastewater treatment plant.

5.0 Policy Context

5.1. National Planning Framework

Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

Policy Objective 19: 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.

5.2. Development Plan

5.2.1. Dun Laoghaire Rathdown County Development Plan 2016

The site is within an area zoned B, the objective for which is to protect and improve rural amenity and to provide for the development of agriculture. Residential is open for consideration.

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).

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)).

Section 8.2.3.6 – refers to Rural Housing and reiterates the provisions of Policy RES16.

In all cases, the applicant shall submit the following details with planning applications for residential development within a rural area:

- A map showing all existing family owned properties and lands.
- A rationale as to why a particular site has been chosen for development.
- A strong justification in relation to the need for an additional dwelling in the rural area.
- A rationale clearly outlining why a family flat would not be suitable.
- Documentary evidence to show how the applicant complies with rural housing policy.
- • A site suitability report in relation to waste water treatment.

(iv) Replacement Dwelling - Rural

In applications for a replacement dwelling the primary considerations will be:

- The potential negative visual impacts on the surrounding properties or landscape and other negative impacts on the rural amenity - which could result from the design, location, layout and size of the proposed dwelling.
- The appropriateness of demolition of the existing structure having regard to its existing setting, age, design and overall contribution to the area.
- Structures do not necessarily have to be designated a Protected Structure to be considered to warrant retention and due regard will be given to an area's vernacular in terms of both existing and proposed structures.

- In currently, or recently, occupied dwellings proposed for demolition the applicants will be expected to be the owner and occupier to make such an application, provide a statement of some details of their occupancy noting that future applications by the applicant/family may have regard to same. Where such permission is granted a Section 47 condition relating to occupancy will not normally be applied.

Appendix 11 – Rural Design Guide

Note: The Dun Laoghaire Rathdown Development Plan 2022 -2028 was adopted on the 10/03/22. It will come into force on 21st April 2022. The following is noted:

Policy Objective PHP23 - Management of One-off Housing is comparable to Policy RES16 of the current plan.

Chapter 12 - Development Management includes section 12.3.11.4 which addresses replacement dwellings which is the same as section 8.2.3.6 (iv) of the current plan.

5.3. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development comprising the construction of a dwelling there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.4. **Natural Heritage Designations**

The nearest European Site is Wicklow Mountains SAC (site code 002122) c. 2km to the south.

6.0 The Appeal

6.1. Grounds of Appeal

The 1st Party appeal against the planning authority's notification of decision to refuse permission, which is accompanied by supporting detail including a structural report, can be summarised as follows:

- The planning authority has accepted the need of the applicants to live on site. They are not in conflict with the development plan zoning B objectives.
- The structural report on the existing structure requires an objective assessment.
- The existing structure consisting of a pre-fabricated structure has been in existence almost 50 years and is long past its functional and intended lifespan of 20 years. The structure was secondhand and was erected on the site in the 1970s. Such a structure was never intended to provide suitable, long term residential accommodation.
- A replacement dwelling is proposed not an additional dwelling. The use of the structure for residential purposes would cease when the proposed house is completed. There would only be one house in place.
- The proposed change of use of the existing house does not appear to be adjudicated on.
- Reference to urban sprawl is an exaggeration and inappropriate.
- Sustainable development includes use of older structures for beneficial uses rather than their demolition. Section 8.2.3.6 (iv) does not explicitly require that the existing house be demolished. The planning authority assumes that demolition is mandatory even though it is not specifically approved by the elected members and thus not contained in the plan as adopted.
- The applicant is prepared to demolish the existing dwelling should permission be granted, however they do not see an immediate need for this as the building can provide usable, commercial space in the short to medium term.

6.2. Planning Authority Response

It is considered that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

6.3. Observations

None.

7.0 Assessment

The Board is advised that at the time of writing this report the Dun Laoghaire Rathdown Development Plan 2016-2022 is the applicable statutory document and to which I have regard. The new 2022 development plan adopted by the Council comes into force on 21st April 2022. The policies and provisions for the area as set out in the new plan are the same as those set out in the current plan.

I consider that the substantive issues arising in the case is the applicants' compliance with the settlement location policy for the area and the provisions applicable to a replacement dwelling.

The site is within an area zoned B 'agriculture' in the current development plan and is identified as being under strong urban influence. In view of the site's close proximity to Dublin city and centres of employment and its obvious attractiveness for urban generated housing demand, this designation is considered to be entirely reasonable.

The National Planning Framework post-dates the said development plan and addresses rural housing. Of particular note National Policy Objective 15 seeks to support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over development whilst sustaining vibrant rural communities. In addition National Policy Objective 19 seeks to facilitate the provision of single housing in the countryside in areas under urban influence based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the siting and design criteria for rural housing in statutory guidelines and plans and to the viability of smaller towns and rural settlements.

On the basis of the above national and local policy provisions I submit that a high bar must be set in terms of demonstrating an applicant's need to have a house at this location based on genuine economic and/or social need so as to ensure the responsible management of the land resource in an area under pressure from one off housing.

The current development plan allows for a presumption in favour of applicants that have an genuine need to reside in proximity to their employment with such employment being related to the rural community.

One of the applicants (Ruth Farrell) is the manager of the adjoining Tibbradden Craft Farm and Hazel House which, in addition to a joinery, craft school and café, contains a pet farm. The said farm contains a number of small animal breeds and the applicant is required to live on site to ensure animal welfare and to manage the facility. The said farm has been in place for a period of time with permission to retain certain elements within the enterprise granted on appeal under ref. ABP 301387-18 (D17A/0469).

On the basis of the information provided I consider that the applicant has provided sufficient detail to support her case in terms of need to live in proximity to her rural based employment and can be seen to accord with policy RES16 of the current development plan and the provisions set out in section 8.2.3.6.

The applicants currently reside in a flat roofed, two bedroom, timber framed structure known as Blackberry Lodge immediately adjacent to the joinery school building. The dwelling is located immediately to the west of a two storey dwelling known as Delmaine Cottage which is outside Ms. Farrell's family's landholding. From the details available Ms. Farrell has lived in Blackberry Lodge for over 10 years.

The development plan allows for the replacement of an existing dwelling where the renovation or restoration of the building is not feasible for structural reasons. A structural report accompanies the application and appeal. The dwelling, at 47 sq.m., cannot now meet the living requirements of the applicants' family. Issues of damp and mould are prevalent with minimal insulation. It is stated that the building has far exceeded its life expectancy and it is not practically or financially feasible to take remedial action and to extend and renovate the structure to acceptable standards. As noted, the location of the dwelling is constrained due to its position immediately

adjoining Delmaine Cottage to the east, the site boundary to the south and its proximity to the roadside boundary. On this basis its replacement with a dwelling of appropriate size at this location would not be possible.

The proposal is for a new dwelling to be constructed on a site to the south to be accessed from Tibbradden Lane. From my reading of the case planner's report the crux in the assessment of the case is the applicants' proposal to retain the existing structure and use same for office and storage purposes. The case made on behalf of the applicants is that the development plan does not explicitly require the demolition of the structure to be replaced. I do not concur with this view in that section 8.2.3.6 (v) which pertains to replacement dwellings states that in assessing an application for such type development regard would be had 'to the appropriateness of the demolition of the existing structure having regard to its existing setting, age, design and overall contribution to the area.' This, in my opinion, infers that a replacement dwelling is, in the main, subject to the existing being removed. To suggest otherwise would allow for the potential proliferation of structures both vacant and occupied which cannot be seen to be in accordance with the policies seeking the protection of the rural and visual amenities of the area. Certainly the dwelling to be replaced, of itself, is not of a design quality or merit to warrant its protection or retention.

On this basis whilst I consider the need for the replacement dwelling has been substantiated in accordance with the provisions of section 8.2.3.6 (iv) of the development plan and is acceptable in principle, this should be subject to the removal of the existing dwelling. Its retention for office and storage space is not seen as an acceptable proposition at this juncture. Any requirements in terms of storage/office space associated with the adjoining commercial operation would more appropriately be assessed in the context of the acceptability of the expansion of the said enterprise at this location and the optimum location for such provision if considered acceptable. I recommend a condition requiring the dwelling's removal be attached should the Board be disposed to a favourable decision.

The replacement 2 storey dwelling is to be located in the southern most portion of the landholding with access from Tibbradden Road. The house design is acceptable and will be located downslope of the road. Subject to appropriate landscaping it can be satisfactorily assimilated into the landscape so as not to have an adverse impact

on the visual amenities of the area. The new vehicular access allows for adequate sightlines in either direction. The road was noted to be lightly trafficked on day of inspection. The dwelling is to connect into the effluent treatment system serving the overall complex of buildings to the north as granted permission under ref. ABP 301387-18 (D17A/0469). The connection will replace that to the existing dwelling which was included in the calculation of the PE for the approved system. Water supply is to be from an existing bore well.

I note that the applicants have resided at Blackberry Lodge for a period of time and continue to do so. As per section 8.2.3.6 (iv) of the plan an occupancy clause is not required to be attached by way of condition in such circumstances.

Appropriate Assessment – Screening

The site is c.2km the north of Wicklow SAC.

Having regard to the nature and scale of the proposed development and the distance from the said designated 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

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the existing dwelling on the site and to the nature and extent of the proposed replacement dwelling, it is considered that the proposed development would accord with the provisions of section 8.2.3.6 (v) of the current Dun Laoghaire Rathdown Development Plan and would not adversely impact on the visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 existing dwelling (Blackberry Lodge) to be replaced by the new dwelling subject of this permission shall be demolished and removed from the site within three months from the first occupation of the new dwelling. Confirmation of said demolition works shall be submitted to the planning authority within one month of their completion.

Reason: In the interest of orderly development and visual amenity.

3. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5. 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.

6. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. No surface water shall discharge onto adjoining lands

Reason: To ensure adequate servicing of the development, and to prevent pollution.

7. The site shall be landscaped in accordance with details and specifications set out in the Site Layout (landscaping) plan, Drawing No. 105 Rev. C accompanying the application.

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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

8. Construction and demolition works shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plans shall be prepared in accordance with the “Best Practice for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of the methods and locations to be employed for the prevention, minimisation,

recovery and disposal of this material in accordance with the provisions of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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 the 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.

Pauline Fitzpatrick
Senior Planning Inspector

March, 2022