



An
Bord
Pleanála

Inspector's Report

ABP-313688-22

Development	Permission for a house and bed and breakfast business
Location	The Hollies, Cullen's Way, Woodside, Dublin 18
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0186
Applicant(s)	Sinead O'Hanlon
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Sinead O'Hanlon
Observer(s)	None
Date of Site Inspection	08/06/2023
Inspector	Gillian Kane

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1.0 Site Location and Description

- 1.1.1. The subject site is located on the north-western side of a narrow partially surfaced cul-de-sac called Cullens Way, running south off Woodside Road in Dublin 18. The appeal site with a stated area of 0.95ha. lying at the 230m contour, is elevated with panoramic views of Dublin city and the surrounding landscape. It is situated 1.5km to the north of the summit of Three Rock Mountain. The subject site is located between two dwellings, with a further two dwellings set back from the road, one to the north and one to the south of the subject site.
- 1.1.2. On the date of my site inspection, the subject site was heavily overgrown with no safe access. The site rises steeply from the roadside to the south, as the lane travels away from Woodside Road. The wider area is rural, with the heavily wooded Barnaculia to the east of the site.

2.0 Proposed Development

- 2.1. On the 15th March 2022 planning permission was sought for the construction of a single storey dwelling of 232sq.m., of which two bedrooms are to be used for B&B accommodation (82sq.m), on a site of 0.95ha.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th May 2022, the Planning Authority issued a notification of their intention to REFUSE permission for the following reasons:
 1. The proposed development which includes the use of part of the dwelling as a guest house, is not a permitted use as it is neither permitted in principle nor open for consideration (other than in existing premises) in the 'B' zoning objective 'To protect and improve rural amenity and to provide for the development of agriculture'. The proposal therefore, materially contravenes the zoning objective in the Dun Laoghaire Rathdown Development Plan 2022-2028 and is contrary to the proper planning and sustainable development of the area.
 2. Having regard to the Objective B Zoning of the site and Policy PHP23 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 with respect

to the management of one-off housing, and the location of the site within an area under strong urban influence as identified in the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government' and the National Planning framework, it is considered that the applicant has not demonstrated a sufficient economic or social need to live in a rural area in accordance with local and national planning policy. The proposed development would therefore contribute to urban sprawl and leads to demand for the uneconomic provision of public services in an unserved rural area and would set an undesirable precedent for similar development in the County. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Note: In addition to the issues raised above the report sets out other issues which would have needed to be addressed were it not for the substantive issues raised above.

3.2. Planning Authority Reports

- 3.2.1. **Drainage Planning:** No objection subject to 2 no. conditions.
- 3.2.2. **Transportation Planning:** Application has not demonstrated new vehicular entrance complies with required visibility splays / sight lines. FI needed.
- 3.2.3. **Environment Section:** Four conditions recommended.
- 3.2.4. **Planning Report:** Zoning Objective B, new build residential open for consideration, B&B not permitted in principle or open for consideration. Applicant has not demonstrated a genuine need to live in a rural area under strong urban influence. Proposed development would contribute to urban sprawl, would be contrary to zoning objective and Policy PHP23 of the County Development Plan, the Sustainable Rural Housing Guidelines and the NPF. Proposed dwelling would seriously injure the rural character of the area. Design is acceptable. Adequate sightlines not demonstrated, road frontage at 12m is not compliant. Recommendation to refuse permission.

3.3. Prescribed Bodies

- 3.3.1. None on file.

3.4. Third Party Observations

- 3.4.1. None on file.

4.0 Planning History

Adjoining site

- 4.1.1. Planning Authority reg. ref. **D14A/0704**: Permission GRANTED for the demolition of a single storey rear extension, front porch and 2 chimneys, addition of 3 windows to front facade and raising of existing cottage roof, construction of new single storey extension with 2 chimneys and new entrance to side and rear of existing house, alterations to existing vehicular entrance, new packaged wastewater treatment system and polishing filter, rainwater harvesting system and all landscaping and ancillary works. All for use as a single dwelling.
- 4.1.2. Planning Authority reg. ref. **D18A/0239**: Permission Granted for Retention of the demolition of the existing cottage and rebuilt structure up to wall plate level and Planning Permission for the construction to complete the works to a single storey cottage style dwelling building with alterations to the original front elevation including windows and a new single storey front porch, with a new single storey rear flat roof extension and all associated site works.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan

- 5.1.1. **Policy Objective PHP23**: Management of One-off Housing It is a Policy Objective 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. One-off housing will only 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). (Consistent with NPO 19 of the NPF and RPO 4.80 of the RSES).
- 5.1.2. **Rural Amenity Zone 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 Chapter 12 'Development Management', Section 12.3.10.

5.1.3. Section 12.3.10 of the 2022 plan refers to one-off housing in the countryside. It states that the Council's policy position in respect of the management of 'one-off' housing in the rural and green belt areas of the County is clearly set out under Policy Objectives **PHP23** and PHP24. In addition to the specific requirements set out in Policy Objective PHP23 in response to the varying degrees of protection afforded to the different rural zonings, and under the provisions of Circular SP5/08 and subsequent Circular PL 2/2017, applications received for one-off dwellings in lands zoned objective 'B' or 'G' will be assessed having regard to:

- The applicant's full-time employment or their commitment to operate a full-time business from their proposed home in a rural area (to discourage commuting to towns and cities).
- How their existing or proposed business contributes to and enhance the rural community.
- The nature of an applicant's employment or business being compatible with rural areas (in order to discourage applicants whose business is not location dependant e.g. telesales or telemarketing).

5.2. Natural Heritage Designations

5.2.1. The nearest Natura 2000 sites are;

- Wicklow Mountains SAC is located 3.9 km to the south-west of the site.
- Wicklow Mountains SPA is located 4 km to the south-west of the site.
- Knocksink Wood SAC is located 5.6km to the south.

- South Dublin Bay and River Tolka Estuary SPA is located 6.8km to the north-east.
- South Dublin Bay SAC is located 6.8km to the north-east.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development comprising the construction of a new detached house and new wastewater treatment system 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The submission provides detail by way of introduction to the making of the application, the pre-planning history and the subsequent inclusion of a home-based business in the proposal. The grounds of the appeal can be summarised as follows:

- The applicant has demonstrated her right to live in the area through her local need. The applicant has submitted compelling evidence that she satisfies the conditions set out in the 2016-2022 development plan, namely the need to live in an area close to her employment, the need for an additional dwelling in the area and being native to the area. It is submitted that the Planning Authority have not given due regard to this in their determination of the application.
- The appeal notes that the new development plan came into force in on April 21st 2022, after the scheme was designed and pre-planning had been held. It is submitted that the 2022-2028 development plan does not significantly depart from the 2016 plan in terms of policy.
- The applicant is willing to run a home-based business – a bed and breakfast in two bedrooms of the proposed dwelling. This enhances the viability of the proposal. Circular SP5/08 and section 8.2.3.6 of the 2016 development plan

require local authorities to look favourably on such proposals. The applicant has identified a need for such a business in the area.

- There are several one-off houses adjacent to the subject site. A precedent exists. The site analysis shows that the subject site lies in a zone of residential development. The proposed development follows an orderly development pattern.
- There are no third-party objections to the proposed development.
- The applicant is willing and able to comply with the requirements of the transportation report, the drainage department and the EHO.
- The proposed design is of excellent quality and provides a positive contribution to the area.
- The Board is requested to grant permission.

6.2. Planning Authority Response

- 6.2.1. The Board is referred to the previous planners report. The grounds of the appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change in attitude to the proposed development.

6.3. Observations

None on file.

7.0 Assessment

- 7.1.1. I have examined the file and the planning history, considered all policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Rural Housing Policy
- Visual Impact
- Other

7.2. Rural Housing Policy

- 7.2.1. The appellant states that the Planning Authority should have had regard to Circular SP5/08 when assessing the local need of the application. The Board will note that this 2008 circular states that a bone fide applicant who may be engaged in a “particular employment or business classified within the local needs criteria, should be given due consideration within the proper planning and sustainable development objectives for the area”. In such instances the applicant is required to satisfy the Planning Authority that they will operate a full-time business to discourage commuting to an urban area, must outline how that business will contribute to and enhance the rural community and satisfy the Planning Authority that the business is location dependent. The Board will note that Circular SP5/08 and PL2/2017 both form part of (being specifically referenced in) section 12.3.10 of the Dun Laoghaire Rathdown County Development Plan which outlines the Councils policy position in relation to the management of one-off housing in the rural and green belt areas,
- 7.2.2. The applicant states that she is employed in a school in Ballinteer. No information regarding the full-time operation of the proposed B&B is submitted, nor how it will contribute to and enhance the rural community. I note that policy PHO23 which complies with NPO 19 of the NPF and RPO 4.80 of the RSES requires an applicant to demonstrate a genuine local need to reside in a rural area due to locationally specific employment. Under the zoning objective B, an applicant must 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. On this matter, I concur with the Planning Authority, the applicant who works in Ballinteer has not demonstrated a genuine need to reside in the area, their employment not being linked to the rural community. That the applicant is willing to create a new business, for which a demonstrable need has not been presented, nor its ability to enhance the rural area, does not qualify as the applicants employment.
- 7.2.3. I note the applicants links to the area, however it is considered that the applicant has not demonstrated a genuine local need to reside in this rural area due to a locationally specific employment, in accordance with policy objective PHP23 of the 2022-2028 County Development Plan, which is consistent with NPO 19 of the NPF and RPO 4.80 of the RSES.

7.3. Visual Impact

- 7.3.1. In addition to the above, PHP23 also requires a proposed one-off house in the rural countryside to not have a serious negative impact on the landscape. Section 12.3.10.2 of the development plan refers to Design, stating that suburban-type and / or ribbon development is not acceptable in rural areas. New dwellings will generally be required to be set back from the road, have a building line established by the local topography and existing / natural land features.
- 7.3.2. The proposed single storey dwelling is to be located at the eastern section of the subject site, adjacent to Woodside Road. The site has a roadside frontage of approx. 13m, nestled between two existing dwellings. The wider area rises as the lane travels southwards, with the result the proposed dwelling would be visible from a wide area.
- 7.3.3. The subject site lies between two one-off dwellings, one of which is the applicants mothers home. The appellant states that the proliferation of one-off dwellings on the lane, in the immediate vicinity of the site creates a precedent, upon which the proposal should be granted. I draw the Boards attention to section 12.3.10.2 of the development plan which specifically states that ribbon development is not acceptable in rural areas.
- 7.3.4. The proposed single storey dwelling has a ridge height of 5m. The long, low, narrow-plan profile of the dwelling would reduce the visual impact from the roadside – as the shortest elevation (12.2m) faces the eastern road frontage. A 47m long elevation faces the northern boundary. Notwithstanding that, having regard to the topography of the site, and to the elevated positioning, scale and height of the proposed dwelling, I consider that the proposed development could not be effectively assimilated into the landscape and it would form a discordant and obtrusive feature on the landscape at this rural location.
- 7.3.5. The scale of the proposed dwelling is such that it would require extensive removal of vegetation on the site and the replacement with impermeable hardstanding – note the extent of patio proposed around the dwelling, as shown on drawing no. 2003.PA.02. I consider this loss of a large site of natural heritage to be contrary to the sustainable development of the area.

7.4. Other

- 7.4.1. I note the issue raised by the Transportation department of DLR regarding sightlines at the proposed entrance. I also note the issue raised by the Planning department regarding B&B use being neither permitted in principle nor open for consideration in a B zoned area. Given the issues raised above, I do not consider this issues substantive. Should the Board wish to grant permission, clarification could be sought by way of a request for further information, or a condition attached to a permission.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development proposed in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not 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 permission be REFUSED for the following reasons and considerations:

- 1 Having regard to the location of the site within an area under strong urban influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 wherein it is policy to distinguish between urban-generated and rural generated housing need, and the location of the site within an area where housing is restricted to persons demonstrating a requirement for housing in accordance with policy PHP 23 and land use objective ‘B’ “To protect and improve rural amenity and to provide for the development of agriculture” of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and to National Policy Objective 19 of the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence, such as in the current case, which states that it is policy to “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...having regard to the viability of smaller towns and rural settlements”, it is considered that the applicant has not demonstrated that they come within the scope of the housing need criteria as set out in the Guidelines and that they have not demonstrated an economic or social need to live in this rural area in accordance with national policy and the Dún

Laoghaire-Rathdown County Development Plan 2022- 2028. The proposed development, in the absence of any definable or demonstrable based need for a house in this rural area, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, contravene the Ministerial Guidelines, and would be contrary to national policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 Having regard to the topography of the site, and to the elevated positioning and scale of the proposed dwelling, it is considered that the proposed development could not be effectively assimilated into the landscape and would, therefore, form a discordant and obtrusive feature on the landscape at this rural location. The proposed development would be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, specifically Section 12.3.10.2 Design, Policy Objective GIB2: Landscape Character Areas of the 2022-2028 Dun Laoghaire Rathdown County Development Plan. The proposed development would seriously injure the visual amenities of the area and, by itself and by the precedent the grant of permission for it would set, would militate against the preservation of the rural environment and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gillian Kane
Senior Planning Inspector

14 June 2023