



An
Bord
Pleanála

Inspector's Report

ABP-314926-22

Development

Change-of-use of detached single-storey vacant farm building to residential use (a detached, single-storey, 1-bedroom dwelling) with associated elevational alterations, new fenestration, and Velux windows, together with an on-site wastewater treatment system, and all associated site works.

Location

Seaview Farm, Quarry Road, Shankill, Dublin 18

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D22A/0606

Applicant(s)

Pauline Cullen

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Pauline Cullen

Observer(s)

None

Date of Site Inspection

02/09/2023

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the western side of Quarry Road, a winding country road running south from Ferndale Road in the south Dublin suburb of Rathmichael.
- 1.1.2. The subject site is part of a working farm, behind electronic gates that open on to Quarry Road. On the date of my site visit, there were horses within two dedicated structures around a working yard. A small single storey cottage to the north of the subject site is for sale and in a state of disrepair. It is likely to have formed part of the overall landholding at some point in the past.
- 1.1.3. The structure the subject of this appeal is a single storey structure, with the eastern gable facing the electric gate. On the date of my site visit, it appeared that works had been undertaken to provide residential use within the structure.

2.0 Proposed Development

- 2.1. On the 18th August 2022, planning permission was sought for a development comprising the change of use of an existing single-storey detached vacant farm-building (53.26sq.m.) to a one-bedroom residential use. The development involved elevational changes, new fenestration and velux windows and an on-site WWTS, all on a site of 0.676ha.
- 2.2. The application was accompanied by a site characterisation report and a planning cover letter.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 11th October 2022, the Planning Authority issued a notification of their intention to REFUSE permission for the following reasons:
 - 1 Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A1, which seeks 'To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans'. The site is located within the proposed Rathmichael Local Area Plan boundary, for which a Local Area Plan will be prepared. Section 2.6.1.3 Local Area Plan Plan-Making Programme of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 notes

that within the A1 zoned lands at Rathmichael there are a number of existing properties and 'minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans.' The proposed development which comprises of the change of use of an existing detached single-storey vacant farm building, having regard to its nature, would not constitute 'minor modification and extensions to existing property'. As such, the proposed development would be contrary to the provisions of Section 2.6.1.3, would set an undesirable precedent for other similar developments and would be contrary to the A1 zoning objective of the area, which seeks 'to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans'. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **EHO:** Further information required regarding adverse impacts arising from construction, water supply and evidence of a potable water supply.
- 3.2.2. **Transportation planning:** Further information required regarding visibility splays to the north and south of the proposed entrance.
- 3.2.3. **Planning Report:** Notes some discrepancies between the drawings and the structures on site. Notes that the subject site is within the proposed Rathmichael LAP boundary. Notes that section 2.6.1.3 of the development plan provides for minor modifications and extensions to existing structures within the LAP area. The planner considers the proposed development not to be minor and therefore concludes that the proposed development is contrary to the zoning objective for the site. Notes that it appears that some demolition of structures on site may have occurred and that clarification of this matter would be sought were permissions not going to be refused. States that the proposed development does not appear to have been designed to take advantage of the site and that contiguous elevations have not been submitted. Planner states that the proposed development complies with standards for internal areas, private amenity space, separation distances. Notes the FI request from the EHO and transportation engineer. Notes screening for AA and EIA. Concludes with a recommendation to refuse permission for one reason.

3.3. Prescribed Bodies

3.3.1. None on file.

3.4. Third Party Observations

3.4.1. None on file.

4.0 Relevant Planning History

4.1.1. None on file.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown Development Plan

5.1.1. Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A1, which seeks ‘To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans’.

5.1.2. LAP Plan-Making Programme: **Section 2.6.3.1**: “It is noted that within the A1 zoned lands at both Old Connaught and Rathmichael there are a number of existing properties. Minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans”.

5.2. Natural Heritage Designations

5.2.1. The subject site is approx. 1.7km from the Loughlinstown Woods pNHA (001211) and 3.6km from the Rockabill to Dalkey Island SAC (003000)

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development comprising the change of use of an existing structure within an existing agricultural premises, 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 appeal provides detail of the subject site, background, land use and zoning and the proposed development. It is stated that the applicant has recently acquired lands in the area (landholding map submitted) and intends to use the lands for equine uses. The subject structure will be used to house a caretaker for the horses on the land.

6.1.2. The grounds of the appeal can be summarised as follows:

- It is unreasonable to refuse planning permission on prematurity grounds. The site is zoned and within the boundary of an emerging LAP. The issue of prematurity is covered under two considerations: temporal and prejudicial.
- The issue of prematurity is addressed in the 2007 Development Management Guidelines, section 7.16.1. The guidelines state that the prematurity should only be used as a reason for refusal if there is a reasonable prospect of the strategy or plan being completed within a specific stated time frame.
- There is no Rathmichael LAP, or draft, or timeframe for completing the LAP.
- Table 2.16 of the development plan refers to a new plan to be prepared for Rathmichael but does not indicate a time frame.
- The applicants agent requested a timeframe from the Planning Authority and received a response stating that a LAP programme had not yet been finalised and no commencement or adoption date could be proffered.
- To refuse permission for prematurity where no timeframe exists is unreasonable, and poor planning.
- A 1982 Government Guidance stated that the absence of a plan, or an unapproved plan cannot be used as a reason for refusal.
- The 1982 guidance requires the Planning Authority to satisfy itself that there is a real possibility that proposed development may be incompatible with likely plan provisions. A common-sense approach should determine applications in advance of an LAP, using sound planning judgement.
- Where a proposal has a small incidental impact, the risk of prejudicing the outcome of an LAP does not arise.

- The proposed development of a small structure on residentially zoned land does not pose any risk to the outcome of the LAP.
- In conclusion the Board is requested to note that the proposed development will not be an independent dwelling, it will be on-site accommodation for an employee.
- The Board is requested to grant permission for the proposed development.

6.2. **Planning Authority Response**

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

6.3. **Observations**

- 6.3.1. None on file

6.4. **Further Responses**

- 6.4.1. 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:

- Principle of the proposed development
- Traffic
- Services
- Appropriate Assessment

7.2. **Principle of the Proposed Development**

- 7.2.1. Providing an additional residential unit on a large zoned site, in relatively close proximity to a suburban village is acceptable in principle, in keeping with the pattern of development in the area and in accordance with the development plan.

- 7.2.2. Regarding section 2.6.3.1 of the 2022 development plan, which refers to an LAP Plan-Making Programme, and states “It is noted that within the A1 zoned lands at both Old Connaught and Rathmichael there are a number of existing properties. Minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans”, I consider it unreasonable to interpret that section to mean that *only* minor development will be considered until the point that the Planning Authority find time to create an LAP for the area. Such a restriction would be unduly onerous, restrictive and not in keeping with section 7.16.1 of the Development management Guidelines which states that prematurity should not be used as a reason for refusal unless a specific time frame is stated within which there is a reasonable prospect of the plan being completed. I note that the Planning Authority have not identified a time frame for even a draft Rathmichael plan, never mind the completion of one.
- 7.2.3. The proposed development can be assessed against the zoning objective for the area and the development management criteria for the proposed development.
- 7.2.4. I note that the Planning Authority raised the issue of other structures on site being demolished. I found no evidence of same on my site visit or within the appeal documentation before me. I note that the work the subject of this appeal has likely already been undertaken. The Board may wish to seek clarification on this matter, however for the purposes of this appeal, I have assessed the application before me.
- 7.2.5. The principle of providing on-site accommodation for an employee of an agricultural business on site, is in keeping with the nature of farm holdings. It is a sustainable re-use of an existing building within a working agricultural business. It is in keeping with the proper planning and sustainable development of the area and in accordance with the zoning objective of the site.

7.3. **Traffic**

I note the report of the Transport Planning Division wherein further information is requested in relation to visibility splays to the north and south of the entrance. The report also states that if the applicant can demonstrate existing traffic speeds on the road that are lower than the speed limit, then a reduced sightline (Y distance) can be accepted.

7.3.1. The Board will note that the proposed development seeks to use an existing agricultural entrance, that appears to have been in existence for some time. It is considered that the traffic that will be generated by a one-bedroom property will not create a significant impact on the existing road network. This is particularly the case where the resident of the subject structure is stated to be in employment on the subject site. I find no reason to refuse permission for the proposed development on traffic grounds.

7.4. Services

7.4.1. I note the report of the Drainage Division, which seeks further information on adverse impacts arising from construction, water supply and evidence of a potable water supply. I note that the proposed development involves the change of use of an existing structure, in an area where there are multiple residential properties and an on-site characterisation report that finds that the site is suitable subject to normal good practice. I am satisfied that the proposed development is acceptable.

7.5. Appropriate Assessment

7.5.1. Having regard to the nature and scale of the proposed development, 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 GRANTED for the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below the proposed development will not injure the residential or visual amenity of the area, nor will it cause a traffic hazard or an injury to public health. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The subject structure shall be used for purposes and functions of the parent agricultural business and shall not be sold, let, or otherwise transferred, save as part of the agricultural business.</p> <p>Reason: In the interest of clarity</p>

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

04 September 2023