



An
Bord
Pleanála

Inspector's Report ABP317119-23

Development	Demolition of dilapidated dwelling. Construction of 6 houses and all associated site works.
Location	Lands located between South Shore Road and Sundrive Road, Rush, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F23A/0062.
Applicant	Shamrock Cottages (Rush) Limited.
Type of Application	Permission.
Planning Authority Decision	Refusal of permission.
Type of Appeal	First Party
Appellant	Shamrock Cottages (Rush) Limited.
Observers	None
Date of Site Inspection	29 th June 2023.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The development is located in the town of Rush in County Dublin in an area between the town centre to the north and the coast to the south and within reasonable distance of the town centre and other amenities. The site which has a stated area of 0.3547 hectares has road frontage onto two roads, South Shore Road which defines the southern boundary and Sundrive Road which defines the northern boundary. The road network is narrow in width approximately 3 metres in the vicinity of the site with no footpaths and is within a 50kph speed limit area.
- 1.2. The site is roughly rectangular in configuration with a narrow road frontage onto both roads of approximately 28 metres and a depth from north to south of approximately 130 metres. There is an old dwelling on the site and the western and eastern boundaries are defined in part by existing boundary walls and hedgerows. Dwellings adjoin the site to the east and west and front onto both roads.
- 1.3. The immediate area is characterised by roads similar to South Shore Road and Sundrive Road with no footpaths and a mix of residential dwellings of varying designs and commercial glasshouses reflecting a more rural pattern rather than a built up area.

2.0 Proposed Development

- 2.1. The development as applied for is for permission for the demolition of dilapidated dwelling and the construction of 6 detached dwellings and all associated site works.
- 2.2. The layout as submitted provides for an estate type roadway accessed from Sundrive Road which will serve five of the proposed dwellings with the remaining dwelling on site no. 2 having independent access onto Sundrive Road. The internal road turning area is located at the southern end of the road and has an area of open space stated as having an area of 158m² between the turning area and the site boundary with South Shore Road. Each of the individual house sites have a parking area to accommodate two cars and private open space/garden areas ranging between 120m² for sites 5 and 6, 145m² for sites 1 and 2, 165m² for site 4 and 170m² for site 3.

- 2.3. The development provides for three house types which are a variation of a two storey design in which house types 1 and 2 are four bedroom dwellings of a modern design and construction with a stated floor area of 181.1m² with a pitch roof and maximum height to ridge level of 7997mm for type 1 and 7770mm for type 2. House type 1 is located in the northern section of the development and type 2 in the middle/central section of the development. House type 3 is also a four bedroomed two storied unit with a stated floor area of 186.4m² with a pitch roof and maximum height to ridge level of 7960mm and is located in the southern section of the proposed development.
- 2.4. In relation to site boundary treatment, it is proposed to construct a 1.8m capped wall where there is no existing wall on the eastern and western boundaries. Low walls are proposed on sections of the Sundrive Road and South Shore Road. A potential access position to lands to the west is indicated from the proposed service road
- 2.5. It is proposed to connect to the public sewer on South Shore Road and dispose of surface water individually to soakaways for the individual dwellings and to a soakaway under the public open space for the internal road.
- 2.6. The planning application was accompanied by a planning report, a drainage design report for the road, a flood risk assessment report and a soakaway design report.

3.0 Planning Authority Decision

3.1. Decision

The decision of the Planning Authority was to refuse planning permission. Three reasons were stated. The first reason refers to its relationship to existing development, overdevelopment, seriously injurious to residential amenities and contrary to sections 14.5, 14.6.2 and table 14.4 of the Fingal County Development Plan (CDP) 2023-2028. The second reason refers to the site's location within a Highly Sensitive Landscape and that the development would be seriously injurious to the visual amenities of the area and materially contravene objective GINHO50 of the CDP. The third reason refers to materially contravening Objectives DMS05 and DMS 020 of the CDP which refer to design statements and a schedule to demonstrate compliance with design standards.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 17th April 2023 refers to provisions of the CDP and site's planning history. The proposal is assessed by a number of issues

- Principle of development deemed generally acceptable.
- Layout, design and visual and it is considered that the proposal is unacceptable, constitutes overdevelopment and visually obtrusive and visually dominant. Reference is made to piecemeal development.
- Open space, boundaries and landscaping and reference is made to the site location within a Highly Sensitive Landscape and notes the hard nature of the development.
- Impact on residential amenity of the area and in this regard, it is considered that the development would have an overbearing nature and negatively impact on adjoining properties.
- Access and parking which refers to the report of the Transportation Planning section.
- Flooding, services and drainage which refers to the report of the Water Services section.
- Part V
- Appropriate Assessment and no issues are identified.
- EIA screening where it is indicated no EIA is required.

The report recommends refusal.

3.2.2. Other department reports.

Water services report recommended additional information be submitted for a revised drainage proposal.

The Parks and Green Infrastructure division refers to the hard nature of the development and that the development incorporate a tree and planting scheme by way of further information. In the event of a permission a condition is recommended in relation to payment of a financial contribution.

The Transportation Planning Section report does not raise any specific objections to the development and recommends further information be submitted requiring revisions to the layout.

Uisce Eireann indicated no objection subject to conditions.

4.0 Planning History

The site has a planning history

P.A. Ref. No. F21A/0323 which was for 2 no. 2 storey dwellings which was withdrawn.

P.A. Ref. No. F22A/009 which was for 3 no. 2 storey dwellings which was withdrawn.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The statutory development plan is the Fingal County Development Plan 2023-2029. The appeal site is zoned RS Residential with the Objective Provide for residential development and protect and improve residential amenity. The Vision in relation to the zoning objective is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.
- 5.1.2. In relation to the core strategy in chapter 2 Rush is identified as a Self Sustaining Town and the CDP identifies housing demand requirements for the town in table 2.14 and for the ongoing demand for housing provision.
- 5.1.3. Chapter 3 relates to Sustainable Placemaking and Quality Homes with the strategy to guide successful placemaking and ensure quality housing and to ensure that housing, in conjunction with high quality placemaking, is delivered in parallel and in the right locations ensuring that Fingal is home to sustainable, resilient communities.
- There is an emphasis on quality and design in new residential developments appropriate with national guidance and standards as stated in Policy SPQHP34, for quality Private and Semi-Private Open Space as stated in Policy SPQHP36, for Compact Growth, Consolidation and Regeneration as stated in Policy SPQHP38, that new infill development shall respect the height and massing of existing

residential units and shall retain the physical character of the area Objective SPQHO39 and that development will be assessed in accordance with standards as outlined in chapter 14 Development Management Standards.

5.1.4. Chapter 9 refers to Green Infrastructure and Natural Heritage and sensitive lands are referred to. Coastal areas are identified as Highly Sensitive Landscapes and the coastal area of Rush is identified with this designation

Objective GINHO59 refers to Development and Sensitive Areas and indicates an objective to;

Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:

- *Causes unacceptable visual harm. "*
- *Introduces incongruous landscape elements. "*
- *Causes the disturbance or loss of*
 - (i) landscape elements that contribute to local distinctiveness,*
 - (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns,*
 - (iii) vegetation which is a characteristic of that landscape type and*
 - (iv) the visual condition of landscape elements*

5.1.5. Chapter 14 outlines a range of standards and requirements for the assessment of development.

Section 1 4.4.2 refers to High Quality Urban Design with an objective DMSO5 that medium to large scale planning applications (in excess of 5 residential units) shall be accompanied by a Design Statement to address the contextual and design issues which have been taken into consideration as part of the scheme.

Section 14.5 refers to Consolidation of the Built Form: Design Parameters and Table 14.4 refers to Infill Development Infill Development and that proposals for infill development will be required at a minimum to provide a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage,

building heights, building line, grain, and plot width; examine and address within the overall design response issues in relation to over-bearing, overlooking and overshadowing and respect and compliment the character of the surrounding area having due regard to the prevailing scale, mass, and architectural form of buildings in the immediate vicinity of the site.

Standards are outlined in relation to a range of criteria including open space private and communal, standards for individual residential units and parking.

5.2. National Guidance.

5.2.1. Sustainable Residential Development in Urban Areas 2009.

The guidelines outline guidance on a range of matters emphasising efficient use of serviced lands and qualitative design, the importance of housing mix and good layout. Specifically in relation to density in outer suburban / 'greenfield' sites that the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.

5.2.2. Quality Housing for Sustainable Communities Guidelines for Planning Authorities 2007 sets out the meeting future requirements for housing with an emphasis of qualitative design.

5.2.3. Design Manual for Quality Housing 2022 provides guidance in relation housing in the context of meeting modern requiring and the principle of sustainable development while acknowledging that it is understood that each scheme will have its own site-specific influences and particular requirements.

5.3. **Natural Heritage Designations**

5.4. **EIA Screening**

5.5. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the

requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The development which is located within the Zoning Objective RS is in line with this objective and provides for a high quality residential development at a density which is considered appropriate to its location in line with national guiding policies.
- The development is consistent with the zoning objective RS of the CDP. Reference is made to relevant objectives in the CDP as they relate to the proposed development and that the proposed development complies with the policies and objectives of the CDP.
- The development is compliant with regional and national planning guidelines in relation to housing provision, density and provision of housing supply and design.
- The site is part of an emerging area which is evolving with the introduction of higher residential development and does not constitute overdevelopment and provides additional residential accommodation and that the density is considerably below the density anticipated in the CDP and the Rush Urban Capacity Housing Yield Table.
- Reference is made to the provisions of the CDP relating to infill development and to table 14.4 of the plan and that the proposed development is consistent with the objectives of the plan.
- The design has taken into account potential overlooking and the houses on sites 5 and 6 and the layout was amended to address any concerns and the revised proposal has appropriately addressed reason no. 2.
- The proposal will not result in any undue noise nuisance.

- The grounds refer to the issue of overdevelopment and if the Board consider this to be the case the applicant would be amenable to a reduction of one unit either site 3 or 4 to provide for additional area of open space.
- The proposal will significantly enhance the streetscape by providing a sympathetic design solution.
- The density of 16.9 per hectare is in line with national guidance on density as stated in *Sustainable Residential Development in Urban Areas 2009*.
- The proposed development meets and exceeds the quantitative residential standards of the CDP and *Quality Housing for Sustainable Communities Guidelines for Planning Authorities 2009*.
- The refusal may have inadvertently subjected the appeal site to Residential Zoned Land Tax (RZLT).
- In relation to the second reason for refusal neither causes the disturbance of loss of and landscaping elements identified in the 4 no. subsections of Objective GINHO59 the objective stated in the reason for refusal. The parks department did not raise any objections.
- In relation to the third reason for refusal the planning authority could have requested compliance with Objective DMSO5 by way of further information and the development only exceed the threshold by one unit.
- The development has been assessed in accordance with criteria set out in the Urban Design Manual and these are addressed in the grounds of appeal.
- In relation to DMSO20 the grounds includes a schedule of accommodation for the consideration of the Board as appendix B of the grounds of appeal.

6.2. Planning Authority Response

The planning authority in a response indicate they have no further comments other than requesting the Board endorse its decision and in the event of a grant of planning permission that the Board apply a Section 48 Development Contribution Scheme condition.

7.0 **Assessment**

7.1. The main issues in this appeal are the principle of the development, compliance with National Guidance and Development Plan Policy, design and layout, impact on visual and residential amenity and service matters specific to the site including access and drainage. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- The principle of the development,
- Policy compliance,
- Design and layout,
- Impact on visual and residential amenity,
- Services
- Appropriate Assessment

7.2. **The principle of the development.**

7.2.1. The development is located within the Zoning objective RC Residential with the Objective Provide for residential development and protect and improve residential amenity and Vision to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity and is also located in an established built up area. Residential is a permitted use in the RC zoning and in principle acceptable but the CDP does outline a wide range of criteria under which any development proposal is considered and also development management standards to be considered in an assessment of a development.

7.3. **Policy compliance**

7.3.1. By way of initial overview of the assessment of the proposed development, the site is located within an area where there is a mix of residential development and also greenhouses associated with horticulture and there appears to be a transition to an increasingly residential area. Residential development in the vicinity has occurred in an incremental, ad hoc and haphazard manner along a road network which is generally narrow in width with an absence of footpaths where pedestrians and

cyclists share a road surface with vehicles and where in sections of the road network there is no safe comfortable passing space for oncoming vehicles. The area also displays an absence of uniformity in relation to house design, The absence of a safe infrastructure for pedestrians, cyclists and vehicles and the likelihood that this will be easily resolved is important in determining the capacity of the area to accommodate a higher scale and density of development. An increased scale and density of development would require a commensurate improvement and upgrade of infrastructure to support this and a transition from what is quasi rural environment to an urban development.

National and local policy does advocate increased densities in built up areas where services are available but the level and scale of increased development and density is contingent on site and location considerations and its capacity to accommodate development and there are constraints relating to the site and the surrounding area. It is also understood that each proposal for development will have its own site-specific influences and particular requirements.

I would accept that the density as proposed is considerably below the density anticipated in the CDP and the Rush Urban Capacity Housing Yield Table but not every site is not necessarily suited to meeting these capacities and densities without a capacity to provide a desired infrastructure to meet increased density.

The appeal site owing its configuration with a relatively narrow width from east to west coupled with a long axis from north to south presents a design challenge but it does attempt to address infilling a backland area between two roads in contrast to the current pattern of development which is largely road frontage development with areas of backland which are serviced remaining undeveloped.

The current proposal is in its design concept a departure from the existing pattern of development by introducing an in-depth layout from the public road and different to the prevailing pattern of road frontage development and I would have no objection to the overall layout concept as proposed as it provides for more compact growth and sustainable development subject to assessment of its impact on its immediate surroundings and providing a development of a qualitative standard for future occupants of the development.

- 7.3.2. In general, the individual dwelling units in relation to standards for floor areas for habitable internal spaces, private amenity open space and parking comply with standards as set out in the CDP and National Guidance. In relation to the third reason for refusal in relation to compliance with Objective DMS05 I consider that the details submitted in the grounds of appeal do address matters required in DMS05 and the development is demonstrated to be in accordance with criteria set out in the Urban Design Manual.
- 7.3.3. In relation to the issue of scale and height of the individual units I would note that the overall height would exceed many of the existing dwellings in the area but there is an absence of uniformity in relation to design in the area with a high level of diversity in heights and finishes and I would have no objections of the scale and height of the individual dwelling units.
- 7.3.4. I note in this regard that the second reason for refusal refers to the site as within a Highly Sensitive Landscapes and the coastal area of Rush is identified with this designation and refers to Objective GINHO59 of the CDP. Objective GINHO59 refers to criteria in assessing proposals and to not permitting a proposal if the development if considered contrary to these criteria. The site as already indicated is located within an area with a high level of development with an absence of visual uniformity. I do not consider that the proposal would adversely impact visually the receiving landscape or be contrary to the criteria as set out in Objective GINHO59 and would not result in unacceptable visual harm; introduce incongruous landscape elements; cause the disturbance or loss of landscape elements that contribute to local distinctiveness or the historic elements that contribute significantly to landscape character of the area or the visual condition of landscape elements.

7.4. Design and Layout

- 7.4.1. As already indicated the appeal site owing its configuration with a relatively narrow width from east to west coupled with a long axis from north to south presents a design challenge. The development provides for four of the residential units in effect oriented towards the existing public road network with two units facing towards each road and providing two further units in the backland space. The individual sites and dwelling in general comply with standards in relation internal accommodation requirements private amenity open space and parking.

- 7.4.2. In relation to overall dwelling mix I note that the CDP does advocate a mix of dwellings but in this case three house types are proposed which are all four bedroomed two storey units. Given the nature of the site and surrounding development and the low number of total units proposed I would have no objections to the mix as proposed.
- 7.4.3. I would however consider that the Parks and Green Infrastructure division observation which refers to the hard nature of the development as valid and also that the communal space as provided in the south of the site adjoining South Shore Road although meeting the quantum of open space provision does not provide for a useable space or play area beneficial to the proposed occupants of the development as it adjoins the turning area of the estate road and the public road and that the residents of units 1 to 4 would be unlikely to have any beneficial use of the space and in the case of site no.2 the occupants would have to travel initially on Sundrive Road with no footpath and then down the proposed internal service road to access the open space. There is also an absence of other spaces to provide for landscaping to soften the overall development along most of the internal service road. In this regard the view of the planning authority referring to cramped and overdevelopment is reasonable. Within the layout as presented it is difficult to envisage the precise nature of any satisfactory tree and planting scheme.
- 7.4.4. I have noted that the appellant in the grounds of appeal has in relation to the issue of overdevelopment indicated that if the Board consider this to be the case the applicant would be amenable to a reduction of one unit either site 3 or 4 to provide for additional area of open space. I do consider that the development does constitute overdevelopment and that the development would be more appropriate if the overall number of units was reduced but any reduction should be in the context of an overall reappraisal of the scheme rather than an omission of one site by condition.
- 7.4.5. A reduction in the number of units would address the third reason for refusal which refers to objective DMSO5 that medium to large scale planning applications (in excess of 5 residential units) shall be accompanied by a Design Statement to address the contextual and design issues which have been taken into consideration as part of the scheme. In relation to this reason for refusal the grounds of appeal has submitted documentation indicating a design statement and compliance with best

practice guidelines and other than my concerns expressed in relation to open space I would have no issues with the submitted documentation.

7.5. Impact on visual and residential amenity

- 7.5.1. In relation to visual amenity as already indicated I do not consider given the prevailing pattern of development that in the wider context of the area that there are adverse concerns in relation to visual amenity.
- 7.5.2. In relation to impact on the residential amenities of adjoining properties I would note that in relation to design that issues of potential overlooking of adjoining lands and properties have been addressed largely by the omission of windows of habitable rooms at first floor level or only windows with opaque glazing of bathrooms on the elevations facing towards adjoining properties. I note that there is a balcony at first floor level facing towards South Shore Road but this faces the public realm and not private areas of residential properties and there are residential properties with a similar feature in the general area.
- 7.5.3. The first reason for refusal also to noise nuisance and although units would be within a range of 1.5 metres and 2 metres from the common boundary with adjoining residential development given the residential zoning such separation is satisfactory and issues of noise nuisance do not I consider arise.

7.6. Services

- 7.6.1. In relation to traffic although further information was recommended the report of transportation planning does not raise any issue that could not be addressed by condition and there is nothing to indicate that the development if granted would give rise to a traffic hazard.
- 7.6.2. In relation to water services there are no issues identified that could not be addressed by condition in particular in relation to SuDS.

7.7. Appropriate Assessment Screening

- 7.8. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen

out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

Having regard to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would be seriously injurious to the amenities of future occupants of the proposed development due an inadequate and useable provision of private open space, would constitute overdevelopment of the site and would therefore be contrary to and materially contravene the current stated zoning objective of Fingal County Development Plan 2023-2029 RS Residential with the objective to provide for residential development and protect and improve residential amenity and a vision in relation to the zoning objective which is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. The proposed development would, therefore, be in accordance with 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.

Derek Daly

Planning Inspector

14th July 2023