

# Comhairle Chontae Atha Cliath Theas

**PR/0140/22**

## Record of Executive Business and Chief Executive's Order

**Reg. Reference:** SD21A/0330      **Application Date:** 03-Dec-2021  
**Submission Type:** New Application      **Registration Date:** 03-Dec-2021  
**Correspondence Name and Address:** Byrne & McCabe Design Ltd. Upper Main Street,  
Graiguenamanagh, Co. Kilkenny  
**Proposed Development:** Change of use of existing office to one bedroom  
apartment; all associated site works.  
**Location:** Rear of 30 Barton Drive, Rathfarnham, Dublin 14  
**Applicant Name:** John Kavanagh  
**Application Type:** Permission

(AOCM)

### **Description of Site and Surroundings:**

Site Area: stated as 0.061 hectares

### **Site Description:**

The application site contains a single storey flat roofed rear extension located to the rear of a two storey building which forms part of a parade of local shops.

There is a side alley access to the site to the front, with access also located to the rear, through an area that currently appears to be shared for bin storage and ad hoc parking. The surrounding area is residential in nature with commercial premises including a fish shop, nail salon and creche located to the rear of the property on Barton Drive.

### **Site visited:**

10 January 2022

### **Proposal:**

Permission is sought for the following:

- **Change of use** of existing office to one bedroom apartment (47.5sq.m)
- New window on east elevation
- Replacement of window on west elevation with a door and replacement of door on north elevation with a window
- Internal layout alterations to facilitate apartment use.

### **Zoning:**

The site is subject to zoning objective 'LC' - *'To protect, improve and provide for the future development of Local Centres.'*

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### **Consultations:**

Surface Water Drainage – No objection, conditions recommended

Irish Water – No objection, conditions recommended

Roads – Further information recommended

### **Submissions/Observations /Representations**

Submission expiry date – 17/01/2022

1 submission was received from occupants of 37 Aranleigh Mount (located to the east and rear of the proposal) requesting that if permission is granted, existing access to the rear of their property is retained at all times during construction and occupation of proposed apartment.

### **Relevant Planning History**

There is no recent relevant planning history for the subject site.

### **Relevant Enforcement History**

There is no recent relevant enforcement history for the subject site.

### **Pre-Planning Consultation**

None recorded for subject site.

### **Relevant Policy in South Dublin County Council Development Plan 2016-2022**

*Section 2.4.0 Residential Consolidation – Infill, Backland, Subdivision & Corner Sites*

*Policy H17 Residential Consolidation*

*Policy H17 Objective 2:*

*To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation.*

*Policy H17 Objective 5:*

*To ensure that new development in established areas does not impact negatively on the amenities or character of an area.*

*Section 11.2.7 Building Height*

*Section 11.3.1 Residential*

*Section 11.3.1 (iv) Dwelling Standards*

*Table 11.20: Minimum Space Standards for Houses*

*Table 11.21: Minimum Space Standards for Apartments*

*Section 11.3.1 (v) Privacy*

*Section 11.3.2 Residential Consolidation*

*Section 11.3.2 (iii) Backland Development*

*The design of development on backland sites should meet the criteria for infill development in*

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*addition to the following criteria:*

- *Be guided by a site analysis process in regard to the scale, siting and layout of the development.*
- *Avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area.*
- *Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking.*
- *Access for pedestrians and vehicles should be clearly legible and, where appropriate, promote mid-block connectivity.*

### *Policy H13 Private and Semi-Private Open Space*

*It is the policy of the Council to ensure that all dwellings have access to high quality private open space (incl. semi-private open space for duplex and apartment units) and that private open space is carefully integrated into the design of new residential developments.*

### *Policy H14 Internal Residential Accommodation*

*It is the policy of the Council to ensure that all new housing provides a high standard of accommodation that is flexible and adaptable, to meet the long-term needs of a variety of household types and sizes.*

### *Policy H15 Privacy and Security*

*It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.*

### *Section 6.4.4 Car Parking*

#### *Policy TM7 Car Parking*

#### *Section 11.4.2 Car Parking Standards*

#### *Table 11.24: Maximum Parking Rates (Residential Development)*

#### *Section 11.4.4 Car Parking Design and Layout*

### *Section 7.1.0 Water Supply & Wastewater*

#### *Policy IE1 Water & Wastewater*

*It is the policy of the Council to work in conjunction with Irish Water to protect existing water and drainage infrastructure and to promote investment in the water and drainage network to support environmental protection and facilitate the sustainable growth of the County.*

### *Section 7.2.0 Surface Water & Groundwater*

#### *Policy IE2 Surface Water & Groundwater*

*It is the policy of the Council to manage surface water and to protect and enhance ground and*

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*surface water quality to meet the requirements of the EU Water Framework Directive.*

*Section 7.3.0 Flood Risk Management*

*Policy IE3 Flood Risk*

*It is the policy of the Council to continue to incorporate Flood Risk Management into the spatial planning of the County, to meet the requirements of the EU Floods Directive and the EU Water Framework Directive.*

*Section 8.0 Green Infrastructure*

*Policy G1 Overarching*

*Policy G1 Green Infrastructure Network*

*Policy G3 Watercourses Network*

*Policy G4 Public Open Space and Landscape Setting*

*Policy G5 Sustainable Urban Drainage Systems*

*Policy G6 New Development in Urban Areas*

*Section 9.3.1 Natura 2000 Sites*

*Policy HCL12 Natura 2000 Sites*

*Section 11.6.1 (i) Flood Risk Assessment*

*Section 11.6.1 (ii) Surface Water*

*Section 11.6.1 (iii) Sustainable Urban Drainage System (SUDS)*

*Section 11.6.1 (iv) Groundwater*

*Section 11.6.1 (v) Rainwater Harvesting*

*Section 11.6.1 (vi) Water Services*

*Section 11.7.2 Energy Performance in New Buildings*

*Section 11.8.1 Environmental Impact Assessment*

*Section 11.8.2 Appropriate Assessment*

### **Relevant Government Guidelines**

***Design Standards for New Apartments - Guidelines for Planning Authorities***, Department of Housing, Local Government and Heritage (March 2018)

***Project Ireland 2040 National Planning Framework, Government of Ireland, 2018***

***Regional, Spatial & Economic Strategy 2019 - 2031***, Eastern & Midlands Regional Assembly, (2019)

***Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities***, Department of the Environment, Heritage and Local Government (2008).

***Urban Design Manual: A Best Practice Guide, A Companion Document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas***, Department of the Environment, Heritage and Local Government, (2008).

***Quality Housing for Sustainable Communities-Best Practice Guidelines***, Department of the

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Environment, Heritage and Local Government, (2007).

*Design Manual for Urban Roads and Streets*, Department of the Environment, Community and Local Government and Department of Transport, Tourism and Sport, (2013).

*Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities*, Department of the Environment, Heritage and Local Government, (2009)

*The Planning System and Flood Risk Management - Guidelines for Planning Authorities*, Department of the Environment, Heritage and Local Government & OPW, (2009).

*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*, Building Research Establishment, (1991).

### **Assessment**

The main issues for assessment concern the following:

- Zoning and Council policy
- Residential and Visual Amenity
- Apartment or House?
- Roads
- Services, Drainage and the Environment
- Appropriate Assessment
- Environmental Impact Assessment

### **Zoning and Council Policy**

The site is subject to zoning objective 'LC' - *'To protect, improve and provide for the future development of Local Centres.'* Residential development is 'Permitted in Principle' under this zoning objective.

### **Residential and Visual Amenity**

The proposal includes change of use of existing single storey rear office space to an integral one-bedroom, single storey ground floor dwelling (47.5sq.m). A new window would be placed on the east elevation, an existing window on the west elevation would be replaced with a door and an existing door on the north elevation would be replaced with a window. The property would be internally remodelled to provide an open plan living area, bedroom, storage and bathroom.

The site location map provides a red line around the proposed office unit only, it is not clear if the applicant owns other property in the area and this is assumed likely given that the existing structure is to the rear of established retail premises, 30 Barton Drive. The applicant should be requested to submit a revised site layout by way of **further information**, clearly identifying other property in their ownership abounding the application site, as well as any wayleaves and rights of way that exist, serving the rear of properties on Barton Drive and Aranleigh Mount. It

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should be clearly demonstrated if the proposed occupants will have a right of way through the existing side path to the proposed dwelling.

### Apartment or House

The Apartment Guidelines (2020) states *'An apartment, for the purpose of these guidelines, may be defined as "a self-contained residential unit **in a multi-unit building with grouped or common access**"'*. Based on this definition, it is not considered that the proposed development would be defined as an apartment as it is not part of a multi-unit building and does not have grouped or common access. It is therefore considered appropriate to assess the development against the minimum space standards for houses. For completeness, the development has also been assessed against the Apartment Guidelines. It should be noted that the proposal is deemed to represent the development of a house and while some standards of the Apartment Guidelines might be met, minimum standards in relation to houses are considered overriding and it is against these criteria that a recommendation will ultimately be made.

Section 11.3.1(iv) sets out the minimum space standards new residential development must comply with. The Quality Housing for Sustainable Communities, Best Practice Guidelines (2007) and the Design Standards for New Apartments - Guidelines for Planning Authorities (2018) provide more prescriptive minimum standards. The tables below provide a comparison of the minimum requirements of the space provided in the proposed dwelling against the Development Plan standards, and those contained within the relevant Guidelines.

**Table 1 Minimum Standards for Houses**

	<b>Target gross floor area</b>	<b>Aggregate living area</b>	<b>Minimum bedroom area</b>	<b>Storage</b>	<b>Private Open Space</b>
<b>Guidelines</b>	44sq.m	23sq.m	11.4sq.m	2sq.m	-
<b>Dev't Plan</b>	50sq.m	-	13sq.m	-	48sq.m
<b>Proposed</b>	47.5sq.m	23.6sq.m	12.5sq.m	2.2sq.m	5.5sq.m

**Table 2 Minimum Standards for Apartments**

	<b>Target gross floor area</b>	<b>Aggregate living area</b>	<b>Minimum bedroom area</b>	<b>Storage</b>	<b>Private Open Space</b>
<b>Guidelines</b>	45sq.m	23sq.m	11.4sq.m	3sq.m	5sq.m
<b>Dev't Plan</b>	45sq.m	-	13sq.m	3sq.m	5sq.m
<b>Proposed</b>	47.5sq.m	23.6sq.m	12.5sq.m	2.2sq.m	5.5sq.m

### *Internal accommodation*

The internal accommodation would include 23.6sq.m aggregate living area, a 12.5sq.m bedroom, 2.2sq.m storage and 5.5sq.m private open space. The Development Plan requires

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main bedrooms to be a minimum of 13sq.m, with the proposal not meeting this standard. With regard to storage, the development would meet the minimum standard for houses, however, would not meet the minimum standard for apartments. It should be noted that wardrobe space in bedrooms does not count towards storage areas. While the Guidelines state one-bedroom single storey units should be a minimum of 44sq.m, the Development Plan requires a minimum of 50sq.m target gross floor area. The proposed scheme does not meet this standard. In cases of backland development and dwelling sub-division internal space standards can be applied more flexibly if appropriate. Policy H14 of the Development Plan states, *'it is the policy of the Council to ensure that all new housing provides a high standard of accommodation that is flexible and adaptable, to meet the long-term needs of a variety of household types and sizes.'* Given the constrained nature of the site and the internal layout, it is not considered that there is much flexibility to adapt the unit depending on the long-term needs of future residents. In this regard, the proposed development is not compliant with Policy H14 of the Development Plan.

### *Private amenity space*

5.5sq.m of private open space is provided as a small courtyard to the rear of the unit, between the subject unit and the main property 30 Barton Drive. The Quality Housing Guidelines do not state a minimum requirement for private open space however, the Development Plan requires 48sq.m private open space to be located behind the front building line. The proposed development therefore does not meet this requirement, at a deficit of 42.5sq.m.

While the provision of 5.5sq.m would meet the minimum standard of the Apartment Guidelines and the Development Plan in relation to apartment development, the provided space is still considered inadequate. There would be a distance of 1.28m between the rear building line of the proposed dwelling and the rear building line of 30 Barton Drive, which comprises commercial units at ground floor. The private open space would be accessed by a door from the bedroom, rather than from the living area, and also a side access gate leading from the property along the side of 30 Barton Drive, providing direct access onto Barton Drive. Policy H13 of the Development Plan states, *'it is the policy of the Council to ensure that all dwellings have access to **high quality** private open space (incl. semi-private open space for duplex and apartment units) and that **private open space is carefully integrated into the design** of new residential developments.'* Given the proposed access and the confined nature of the space, it is not considered that the open space provided would be high quality and has not been carefully integrated into the design of the unit, given the access arrangements off the bedroom and its location sandwiched between two properties, without any attractive aspect.

### *Proposed window*

Externally, a new window would be placed on the east (front) elevation to serve the living area. The aspect from this window is considered less than desirable, fronting onto bin storage and

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outbuildings associated with the retail premises on Barton Drive. Furthermore, there is no privacy strip proposed in front of the property, impacting on the privacy and security of the proposed dwelling.

There are two existing windows on the south elevation which would serve the bedroom and provide an additional window for the living area. These windows are located 36cm from the site boundary which currently comprises mature trees and vegetation. From a site visit it appears that there is currently no boundary wall and therefore these windows would provide views through the vegetation and trees into the private rear garden of the adjoining property. It is considered likely that, in the event of the habitation of this unit, the neighbouring property may provide additional fencing at this location for privacy reasons. In this event, light to the unit, which is already compromised by vegetation, would be further impacted. In addition, in the event additional fencing was not provided, it is considered unacceptable for the privacy and amenity of future potential occupants that privacy would be compromised by the ability of 'peeping-tom' neighbours to have direct views into the private internal space of the unit from the neighbouring garden.

It is considered that the site could be vulnerable in terms of safety, given a lack of lighting or any proposals for secure access to the property or any distinctive site boundary proposals. In addition, it is not clear from the site location map or layout plan provided what the applicants right of way is in terms of accessing this property. No wayleaves have been shown and there would be a concern that subsequent development at neighbouring properties could impact access to the proposed dwelling. Policy H15 of the Development plan states, '*it is the policy of the Council to promote a **high standard of privacy and security** for existing and proposed dwellings through the design and layout of housing.*' It is considered that the proposed development does not comply with this policy.

Based on the above, the change of use to residential development is considered inappropriate in terms of residential amenity and safety and should be **refused**. It is considered that the proposed change of use and associated works would provide substandard residential accommodation as a result of poor daylight, privacy, security and permanent access to the property. The works represent an inappropriate use for this location when undertaken in isolation of other development, would not provide an adequate quality of accommodation, as a result of poor daylight serving the rooms as well as a lack of clarity on secure permanent access to the property.

### Roads

The Roads Department has reviewed the application and has recommended **additional information** is sought as follows:

1. *The applicant is requested to submit a revised layout not less than 1:100 scale:*
  - a. *Indicating the primary access and egress from proposed dwelling.*



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- b. *Showing the car parking, bicycle parking and pedestrian routes within the development (Please refer to Table 11.22: Minimum Bicycle Parking Rates – SDCC County Development Plan 2016-2022)*
- *The minimum width of footpaths shall be 1.8m wide to aid mobility impaired users.*
  - *All external bicycle parking spaces shall be covered.*
  - *Footpath layout shall provide adequate connectivity around the development and footpaths on the main road.*
- c. *how parking to the rear is managed, and whether a safe and permanent access can be maintained to the proposed dwelling.*

It is considered appropriate to request the above **additional information** to ensure safe access to the property as well as compliance with car and bicycle parking requirements and the ongoing ability to maintain permanent access to the property.

However, having regard to the comments above on the design and living accommodation of the proposal, permission should be **refused**.

### **Services, Drainage and the Environment**

Water Services and Irish Water have reviewed the application and have stated no objection subject to the following **conditions**:

#### Water Services

*Prior to commencement of development submit a drawing showing the surface water layout of proposed development. Consider what if any SuDS (Sustainable Drainage Systems) such as planter boxes or other such SuDS can be used in proposed development.*

#### Irish Water

##### 1. *Water*

*Prior to the commencement of development the applicant or developer shall enter into water connection agreement(s) with Irish Water.*

*Reason: In the interest of public health and to ensure adequate water facilities.*

##### 2. *Foul*

*Prior to the commencement of development the applicant or developer shall enter into waste water connection agreement(s) with Irish Water.*

*Reason: In the interest of public health and to ensure adequate waste water facilities.*

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In the event of a grant it would be considered appropriate to attach the recommended **conditions**.

### **Screening for Appropriate Assessment**

Having regard to the scale and nature of the development, connection to public services and the distance from Natura 2000 sites, 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.

### **Environmental Impact Assessment**

Having regard to the modest nature of the proposed development, and the distance of the site from nearby sensitive receptors, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **Conclusion**

Having regard to the provisions of the South Dublin County Council Development Plan 2016-2022 it is considered that the proposed development would not comply with the minimum space standards contained in Table 11.20 and would not provide an acceptable standard of accommodation as a result of concerns regarding daylight, privacy, security and permanent guaranteed access to the property. In addition, there is no provision made for car or bicycle parking. It is considered that allowing the proposed development would set a dangerous precedent for similar works throughout the county. The development would therefore not be in accordance with the proper planning and sustainable development of the area.

### **Recommendation**

I recommend that a decision to Refuse Permission be made under the Planning & Development Act, 2000 (as amended) for the reasons set out in the Schedule hereto:-

## **SCHEDULE**

### **REASON(S)**

1. The proposed development would not comply with Policies H13, H14 or H15 of the Development Plan, providing a substandard level of accommodation that would not have adequate levels of privacy and security, or offer much scope for future adaptability. Specific concerns relating to the accommodation provided include:
  - The private open space would have no aspect and would be accessed directly from a bedroom, with a distance of 1.28m to a flank wall of a neighbouring property. This is considered unacceptable in terms of residential amenity.

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- Windows serving the bedroom and living area on the south elevation would be located only 36 cm from the site boundary, which is currently comprised of mature trees and vegetation. This would impact daylight to the internal accommodation. In addition to this, these windows currently overlook the private rear garden of a neighbouring property. This would impact the privacy and amenity of the proposed apartment and the neighbouring property. In the event that the neighbouring property erected a boundary wall to protect privacy, the daylight to these rooms would be further negatively impacted.
- It is unclear that permanent access to the property can be guaranteed. It is unclear how much land in the vicinity of the subject site is under the control of the applicant and no evidence of rights of way or wayleaves has been submitted. There is concern that future development at neighbouring sites could compromise access to the proposed apartment unit.

For the reasons stated, the proposed development does not comply with the policies of the South Dublin County Development Plan 2016 - 2022 and would represent inadequate residential accommodation. Thus, the proposed development would contravene the proper planning and sustainable development of the area.

2. The Apartment Guidelines (2020) define an apartment as 'a self-contained residential unit in a multi-unit building with grouped or common access'. It is considered that the proposed development does not meet this definition, and it has been determined that the development should be assessed against the minimum standards for houses contained in Table 11.20 of the Development Plan 2016 - 2022. Based on this, the proposal does not meet the requirements for private open space. 48 sq.m of private open space is required for a one-bedroom house. The proposed development provides 5.5sq.m, significantly below the required standard. The development is therefore contrary to the Development Plan, providing an inadequate level of private amenity space. In this regard the development is not considered to be in the interests of the proper planning and sustainable development of the area.
3. The proposed development does not meet the minimum space standards for houses contained in Table 11.20 of the Development Plan in relation to target gross floor area or private open space. In addition, the floor area of the proposed development does not provide the recommended minimum size of 13sq.m, as specified in Section 11.3.1(iv) 'Dwelling Standards'. It is therefore considered that the proposed accommodation would be substandard, contrary to the land use zoning and not in the interests of the proper planning and sustainable development of the area.

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**REG. REF. SD21A/0330**

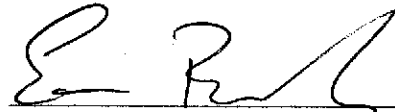
**LOCATION: Rear of 30 Barton Drive, Rathfarnham, Dublin 14**

  
\_\_\_\_\_  
**Jim Johnston,**  
**Senior Executive Planner**

**ORDER:** A decision pursuant to Section 34(1) of the Planning & Development Act 2000 (as amended) to Refuse Permission for the above proposal for the reasons set out above is hereby made.

**Date:**

4/2/22

  
\_\_\_\_\_  
**Eoin Burke, Senior Planner**