

# **An Bord Pleanála**

## **Inspector's Report**

**PL06F.220370**

**DEVELOPMENT :** Proposed bungalow, improved access and associated site Works at Feltrim Road, Streamstown, Malahide, Co. Dublin.

### **PLANNING APPLICATION:**

**Planning Authority:** Fingal County Council  
**Planning Authority Reg. No.:** F06A/1173  
**Applicant:** Liam Donnelly  
**Application Type:** Permission  
**Planning Authority Decision:** To Refuse Permission

### **APPEAL:**

**Appellant:** Liam Donnelly  
**Type of Appeal:** First Party - v - Decision  
**Observers:** None

**DATE OF INSPECTION:** 13<sup>th</sup> January 2007

**INSPECTOR:** Enda P. Conway

## **SITE LOCATION AND DESCRIPTION**

The site is located on the south side of Feltrim Road about 100 metres from its junction with the Malahide/Dublin Road. There are houses on both sides of the site and houses across the road forming a group of houses round the signal controlled junction. The site is long and narrow, approximately 77metres deep and 17 metres wide. There are rows of conifer trees on either side of the plot screening it from the adjoining properties. There is a 2 metre high rubble wall along the front boundary, part of which has been removed, forming an open entrance. The site is generally level.

## **PROPOSED DEVELOPMENT**

It is proposed to build a detached bungalow of 180 square metres floor area on the site, containing three bedrooms, kitchen, lounge, and with a sunroom at the rear. Access is on the eastern side. The finish is brick and plaster with concrete tiled roof. Storage space is provided in the attic area with occasional roof lights. The front of the house is set back 22 metres from the front boundary and 2 car parking spaces are provided. The entrance is set back with vision splays in both directions to the corners of the site.

Foul drainage and water supply are available in the roadway and surface water is disposed of to soakaway.

## **PLANNING AUTHORITY DECISION**

Fingal County Council made a decision to refuse permission by order dated 5<sup>th</sup> October 2006 for two reasons, (a) non compliance with the Councils rural housing policy relating to housing in a ‘greenbelt’ area, thus materially contravening the development plan, and (b) being located in the inner noise zone of Dublin Airport, would be subject to unacceptable noise levels and contrary to development plan policy relating thereto.

## **PLANNING HISTORY**

Permission was refused on appeal in July 2001, ref 123833 for a dwelling on this site, following a decision to refuse by the planning authority. Two reasons for refusal were cited by the Board, (a) because of the excessive height, bulky roof appearance and setback from the established building line it would be out of character with the form of adjacent dwellings, would be visually intrusive and seriously detrimental to the residential amenity and depreciate the value of property in the vicinity of the site, (b) creation of a vehicular access near a heavily trafficked junction would interfere with the safety and free flow of traffic.

## **DEVELOPMENT PLAN**

The site is in an area zoned ‘GB’ – “to protect and provide for a green belt to demarcate the urban and rural area and to provide for agriculture and amenity in a manner that protects the physical and visual amenity of the area” in the Fingal County Development plan 2005 – 2011. The ‘vision’ for this objective states “The zoning

objective seeks to create a rural/urban fringe that is attractive, accessible, diverse and multifunctional. It will serve the needs of both urban and rural communities, strengthen the links between town and country and contribute fully towards sustainable development. The role of the greenbelt is to retain the open and rural character of lands between and adjacent to urban areas, to provide for permanent openness and rural character between urban areas, to provide a clear distinction between the urban areas and the countryside and to prevent and where necessary counteract urban sprawl, encroachment and coalescence”.

The Councils policy on dwellings in the greenbelt states “that new housing shall be permitted to farm families only, where the applicant meets the criteria set out in Section 5.3 of the Plan ‘Housing in the Countryside’. Permission for new dwellings in the greenbelt shall not be considered by reason of immediate family ties”.

The site is also within the Inner Noise Zone of Dublin Airport. The Councils policy in this regard is that within the inner zone, “new provision for residential development and other noise sensitive uses will be resisted”

Policy DAP11 states, “To strictly control inappropriate development and to require noise insulation where appropriate within the outer noise zone and to resist new provision for residential developments and other noise sensitive uses within the inner noise zone, as shown on the development plan maps.”

The Councils ‘Housing in the Countryside’ policy sets out criteria to be met when considering granting permission for a dwelling in the circumstances where the applicant meets the basic qualification requirements of the Plan. The Council has had regard to the provisions of the Sustainable Rural Housing Guidelines for Local Authorities in formulating its policy on rural housing. The Guidelines recommend policies for accommodating rural housing needs where they arise but subject to consideration of other relevant policies and objectives of the development plan.

## **APPEAL**

The following grounds of appeal were submitted:

- The site is within the established rural community of Feltrim Cross, a settlement of 20 houses. Though not farmers the family have lived in Streamstown for three generations. No account was taken of the close family ties and business links to the immediate area.
- This is just a one off house in the inner zone. Adequate insulation can be incorporated into the design to take account of the noise element.
- The proposal comes within the scope of the Sustainable Rural Housing Guidelines of the DoELG. The proposal would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health or cause traffic hazard or be contrary to the Development Plan provisions.
- There are many examples of permission granted in this area with access given on to the Malahide Road and the Feltrim Road. Equal treatment is requested in this case.

## **RESPONSE TO GROUNDS OF APPEAL**

The Planning Authority in responding to the grounds of appeal stated that the applicant had not established his need for housing in the area as required under the Councils rural housing policy. The site is also in the Inner Noise Zone of Dublin Airport. It is contrary to the development plan policy which resists development in this zone.

## **ASSESSMENT**

The issues in this case include (a) compliance with the planning authority's rural housing policy in greenbelt zones and (b) Airport noise impact.

The greenbelt zoning in this locality is inappropriate in my opinion. The subject site is within a cluster of about 20 houses located round a traffic signal controlled junction. Whilst the broader area merits greenbelt designation, this enclave of residential development merits recognition as such. It is noted that the Development Plan identifies 'rural clusters' in the countryside and a number of these are listed in the plan. The policy in these clusters is to consider development that would consolidate and strengthen these communities. Such a designation and policy would, in my opinion be appropriate in this location. The applicant complies with the requirements of the cluster in relation to close family ties with the local community, which the Council accepts in the case of this applicant.

The site is a narrow infill site between existing houses. A dwelling on the site would not detract from the aims of the greenbelt zoning. Because of its size, shape and location, there is probably no other use compatible with greenbelt zoning that could be accommodated economically on the site. Infilling the gap with a house would improve the overall appearance of the area and present a more compact cluster development.

The site is within the inner noise zone of Dublin Airport but not within the area of navigation hazards. In the outer noise zone permission is granted subject to appropriate insulation being provided. Such a condition could be attached to development in this area, noting the number of dwellings already within this zone and the acceptance by people living in the vicinity and who are willing to tolerate the noise levels.

The size and scale of the dwelling has been scaled down from that originally proposed and is acceptable in terms of its relation to the adjoining properties. The building line corresponds with that of the dwelling to the east, though behind that of the dwelling to the west which is only set back 6 metres from the road boundary, its gable end facing the subject site.

## **CONCLUSIONS AND RECOMMENDATIONS**

Notwithstanding that the planning authority has made a decision to refuse permission on the grounds that the proposal would 'materially contravene' the provisions of the development plan, I consider that this is an instance where it would be appropriate for the Board to invoke section 37(2) of the Planning and Development Act 2000.

The proposed development consists of an infill dwelling in a cluster of dwellings in a rural area, to which the planning authority's policy in relation to rural clusters would be more relevant and appropriate than dealing with the application as an isolated rural dwelling in a greenbelt situation. The proposal would not prejudice the policy of maintaining the character of the greenbelt or the protection of agriculture. I therefore recommend that permission be granted subject to the following conditions.

### REASONS AND CONSIDERATIONS

Having regard to the applicants established ties with the local community and to the provisions of the "Sustainable Rural Housing Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in April 2005, and to the location of the site in an established cluster of houses within which the proposal would constitute infill development, it is considered that that, subject to compliance with the following conditions, the proposed development would not be prejudicial to public health, would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS

1. (a) The proposed development when completed shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family, or their heirs, and shall remain so occupied for a period of at least 7 years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

3. Details of the site access shall be submitted to and agreed with the planning authority, prior to commencement of development.

**Reason:** In the interest of traffic safety.

4. That an appropriate level of noise insulation be incorporated into the design of the dwelling to minimise the adverse effect of aircraft noise, having regard to its location within the inner noise zone of Dublin Airport, and that such detail be agreed with the planning authority prior to commencement of development

**Reason:** In the interest of public health.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme

**Reason :** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Enda P. Conway.  
Inspector

22<sup>nd</sup> January 2007.