



An  
Bord  
Pleanála

## Inspector's Report ABP-306512-20.

### Development

Demolition of a single storey former dwelling and a separate domestic garage and construction of a new detached storey and a half dormer style dwelling and separate single storey garage. Works include modification of existing site entrance from Baskin Lane, access road, drainage system, soakaways and all associated works. Also, construction of a new single storey domestic garage and boundary treatment to existing dwelling on the site.

### Location

Lands at Stockhole, (Baskin Lane Rural Cluster), Cloghran, Swords, Co. Dublin.

### Planning Authority

Fingal County Council.

### Planning Authority Reg. Ref.

F19A/0519.

### Applicant

Jennifer Roche.

### Type of Application

Planning Permission.

### Planning Authority Decision

Refused.

**Type of Appeal**

First Party

**Appellant**

Jennifer Roche.

**Observers**

DAA.

**Inspector**

Patricia-Marie Young.

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## 1.0 Preliminary Note

- 1.1. The appellants request for an oral hearing was considered in accordance with Section 134(3) of the Planning and Development Act, 2000, as amended. In this regard the Board considered that this appeal case could be adequately dealt with through written procedures and that an oral hearing was not necessary for the determination of this appeal case.

## 2.0 Site Location and Description

- 2.1. The irregular L-shaped appeal site which has a stated 0.434ha (1.07acres) area was subject of a recent appeal case (Note: ABP Ref. No. 303113-18). I consider the site location and description provided by the Board's Director of Planning for this case is still applicable. It reads:

*"The subject site is located on the western end of Baskin Lane. To the south of the site, is a single storey bungalow. There are further detached dwellings located to the east and north west of the site. The property to the south is identified as the existing family home. The site comprises an existing single storey dwelling and derelict tin roof structure. The general character of the area is rural with a number of single storey and dormer dwellings located along Baskin Lane, increasing in number closer to Kinsealy end of Baskin Lane".*

- 2.2. To this I note that the appeal site is located c0.3km to the east of Junction 2 of the M1 and c4.7km to the south west of the centre of Malahide, both as the bird would fly.

## 3.0 Proposed Development

- 3.1. By way of this planning application permission is sought for a development consisting of the demolition of a single storey former dwelling (Dowling Lodge) and a separate domestic garage as well as the construction of a new detached storey and a half dormer style dwelling and separate single storey garage. The proposed works include modification of existing site entrance from Baskin Lane, access road, drainage system, soakaways and all associated works. Also, planning permission is sought for the construction of a single storey domestic garage and boundary treatment to existing dwelling on the site.

3.2. According to the submitted documentation accompanying this application the gross floor space of existing buildings on site is 420m<sup>2</sup>; the gross floor space of works proposed is 269.1m<sup>2</sup>; the gross floor space of work to be retained is 360m<sup>2</sup> and the gross floor space of demolition is 60m<sup>2</sup>. In addition, it is indicated that the proposed dwelling would contain 4 bedrooms whereas the existing dwelling contains a stated 6 bedrooms.

3.3. This application is accompanied by but not limited to:

- Covering Letter, dated the 4<sup>th</sup> day of November, 2019.
- Letter of Consent from the purported owner of the existing garage for which demolition is sought and the relocation of an existing site entrance.
- Letters of Consent from adjoining landowners to facilitate sightlines where required.
- Supplementary Application Form for Planning Permission for a Dwelling House in a Rural Area.

## 4.0 Planning Authority Decision

### 4.1. Decision

4.1.1. The Planning Authority decided to **refuse** planning permission as follows:

- “1. *Having regard to the location of the site within an Area Under Strong Urban Influence, as identified in the current Fingal County Development Plan, the Sustainable Rural Housing Development Guidelines 2005, and to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018 which, for rural areas under urban influence, seeks 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 does not come within the scope of the housing need criteria as set out in the Guidelines and does not comply with National Policy Objective 19, in addition the proposed development, in the absence of any identified locally*

*based need for one additional dwelling at the site would materially contravene the rural settlement strategy of the Fingal Development Plan 2017-2023, specifically Objective RF20 whereby housing is restricted to applicants with a defined rural housing need set out as • Persons currently living and who have lived continuously for the past ten years or have previously lived for a minimum of ten continuous years, or • Persons working continuously for the past ten years, within areas of the County currently zoned rural. These areas are zoned Rural Village (RV), Rural Cluster (RC), Rural (RU), Greenbelt (GB), or High Amenity (HA). The applicant already has a house on the site and as a result to permit the proposed development 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, be contrary to the proper planning and sustainable development of the area.*

2. *The proposed development does not achieve the required sightlines of 90m to the east of the site onto Baskin Lane. To achieve these sightlines requires works to be undertaken to lands outside the applicant's control, the consent provided for this does not specifically relate to this proposed development, but development sought under F18A/0516. The proposal, which would intensify use of a vehicular access onto a busy rural road would not provide adequate sightlines and would represent a traffic hazard.”*

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports

The **Planning Officer’s Report** was the basis of the decision set out in Section 4.1.1 above.

This report concludes that the applicant has not satisfactorily demonstrated compliance with the Rural Settlement Strategy of the Fingal Development Plan, 2017 to 2023, with regard to ‘Rural Clusters’.

It also noted that the applicant was a co-owner of the existing dwelling house on the site and therefore it was not considered that the applicant had a genuine rural generated housing need.

#### 4.2.2. Other Technical Reports

**Planning & Strategic Infrastructure Department:** Concluded with a request for additional information on the matter of providing adequate sightlines.

**Parks Department:** Additional landscape information sought.

**Water Services Department:** No objection, subject to safeguards.

#### 4.3. Prescribed Bodies

4.3.1. **Dublin Airport Authority (DAA):** The submission made correlates with that received by the Board (See: Section 7.3 of this report below).

4.3.2. **Irish Water:** Additional Information was requested.

4.3.3. **Transport Infrastructure Ireland:** Indicated that they had no observations to make.

#### 4.4. Third Party Observations

4.4.1. None.

### 5.0 Planning History

#### 5.1. Site

**ABP-303113-18 (P.A. Reg. Ref. No. F18A/0516):** On appeal to the Board planning permission was **refused** for a development consisting of the demolition of an existing single storey dwelling and the construction of 2 no. detached dormer style dwellings together with all associated site works for the following stated reasons and considerations:

*“Having regard to the location of the site within an Area Under Strong Urban Influence, as identified in the current Fingal County Development Plan, the Sustainable Rural Housing Development Guidelines 2005, and to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018 which, for rural areas under urban influence, seeks 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 does not come within the scope of the housing need criteria as set out in the Guidelines and does not comply with National Policy Objective 19. The proposed development, in the absence of any identified locally based need for two additional dwellings at the site, 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”.*

**P.A. Reg. Ref. No. 00A/0505:** Planning permission was **granted** subject to conditions for a double garage and bio-cycle to the rear of the site.

**P.A. Reg. Ref. No. F97A/112:** Planning permission was **refused** for the construction of 3 no. bungalows. The reasons for refusal considers that the proposed development failed to demonstrate compliance with rural planning policy, that the suburban type of development would contravene the zoning objective for the area; that the proposed development constituted undesirable backland development which would create a precedent for further such developments in the area which would be out of character with the pattern and layout out of development in the vicinity; and, it raised concerns in relation to the failure of the road frontage to comply with Development Plan requirements; prejudicial to public health due to the site being of an insufficient size to safely accommodate three separate wastewater treatment systems.

## 5.2. **Board Decisions in the Vicinity**

**ABP-305578-19 (P.A. Reg. Ref. No. F19A/0340) – area to the rear of dwelling named ‘Glendowan’, Baskin Lane, c0.9km to the east of the site.**

On appeal to the Board planning permission was refused for a development consisting of the construction of detached dwelling. The Boards reasons and considerations read:

*“The Board considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate at a point where sightlines are seriously restricted.”*

In addition, the following note was also included. It stated the following:

*“Having regard to the limited area and access arrangements associated with the site and its relationship with adjoining property, the proposed development would continue a pattern of substandard backland development which would result in disorderly*

*development and would be contrary to the proper planning and sustainable development of the area, however having regard to the substantive reason for refusal and that this matter constitutes a new issue the Board decided not to pursue it further”.*

## **6.0 Policy & Context**

### **6.1. National Planning Provisions**

#### **6.1.1. National Planning Framework – Project Ireland 2040, 2018.**

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

#### **6.1.2. Sustainable Rural Housing Guidelines for Planning Authorities, 2005.**

These guidelines require the planning system to facilitate people who are part of the rural community, including in areas under strong urban influence subject to safeguards such as meeting the normal requirements in relation to such matters as road safety, proper disposal of surface water while directing urban generated development to areas zoned for housing development in cities, towns and villages. Essentially these guidelines seek to reach a balance in terms of development in the countryside so that the landscape is conserved and that new dwellings take account of as well as integrate in an appropriate manner with their surroundings. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

### **6.2. Development Plan**

- 6.2.1. The Fingal County Development Plan, 2017 to 2023, is the applicable plan under which the majority of the site is zoned ‘RC’ (Rural Cluster). The stated land use zoning objective for ‘RC’ zoned land is: *“to provide for small scale infill development serving local needs while maintaining the rural nature of the cluster.”* The northernmost portion

of the site is within the zoning objective 'GB' (Greenbelt). The land use objective for such lands is *"to protect and provide for a greenbelt"*.

- 6.2.2. The proposed development is located within the former Outer Airport Noise Zone and the newly adopted Noise Zone C.
- 6.2.3. The rural area of Fingal is identified as an area under 'Strong Urban Influence' and residential development is subject to compliance with the rural settlement strategy set out in the plan.
- 6.2.4. Objective RF19 is relevant to the proposed development sought. It seeks to encourage consolidation of rural housing within existing rural clusters which will cater for rural generated housing demand, as an alternative to housing in the open countryside. It also seeks to encourage the reuse of existing buildings within the cluster over any new development.
- 6.2.5. In relation to Rural Cluster Settlement Strategy the Development Plan indicates that rural clusters serve as areas where members of the rural community can live as an alternative to housing in the open countryside. The settlement strategy identifies opportunities for infill development and encourages appropriate levels of consolidation allowing families living in such clusters to build a needed new home by subdividing new large sites, where drainage requirements allow. Settlement within the Rural Clusters will be open to members of the Fingal rural community who demonstrate a rural generated housing need.
- 6.2.6. Objective RF20 of the Development Plan is relevant. This objective indicates that the Planning Authority will only permit persons with rural generated housing need, as defined within the Development Plan. It also sets out a number of criteria for planning permission for a house within a Rural Cluster.
- 6.2.7. Objectives RF21, 22, 23, 24 and 25 of the Development Plan are relevant. These relate to the character of clusters, entrance designs, home based economic activity, design, siting and access requirements for rural dwellings in clusters.
- 6.2.8. Objective DA07 is also relevant. It sets out controls around development within the Outer Noise Zone for Dublin Airport as well as seeks to restrict the type of development proposed by way of this application.

### **6.3. Natural Heritage Designations**

6.3.1. There are a number of European Sites within a 15km radius of the site. The nearest are:

- Special Protection Areas: Malahide Estuary SPA (Site Code:004025) which lies c3.9km to the north east of the site.
- Special Area of Conservation: Malahide Estuary SAC (Site Code: 000205) which lies c4.1km to the north east of the site.
- Special Protection Areas: Baldoyle Bay SPA (Site Code:004016) which lies c4.6km to the east of the site.
- Special Area of Conservation: Baldoyle Bay SAC (Site Code: 000199) which lies c4.1km to the east of the site.

### **6.4. Environmental Impact Assessment/Screening**

6.4.1. Having regard to the nature and scale of the development for which planning permission is sought, the significant separation distance between the site and the nearest designated European site as set out in Section 6.3 above, the lack of any hydrological link to these sites or any other quantifiable link, I consider that 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.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. The grounds of this 1<sup>st</sup> Party appeal can be summarised as follows:

- The appellant has lived at 'Stockhole', the dwelling on site, for 10 years plus and should be considered a person who is intrinsic to this rural community alongside having a housing need.
- The Sustainable Rural Housing Guidelines were written prior to the divorce referendum.

- The appellant is a qualified accountant who often works from home and the proposed dwelling allows for working from home.
- As part of the application land registry folios show the land is in her joint ownership and other documentation such as membership to local clubs through to service bills demonstrate that the applicant has lived and occupied 'Stockhole' since purchasing the same folios.
- The appellant has a shared ownership in the existing dwelling until her divorce is finalised.
- The site benefits from public mains drainage, water supply, electrical supply, broadband and has gas availability. It benefits from an existing access onto Baskin Lane and is in close proximity to existing services, minimising the impact of connecting to infrastructure and public services.
- The Council have lodged a concurrent application for 7 no. single dwellings on Stockhole Lane in close proximity to the application site.
- This current application makes provision for 90m sightlines from the proposed new site entrance.
- No regard was had by the Planning Authority to the consent provided by adjoining neighbours.
- The appellant requested an oral hearing.
- The appellant seeks that the Planning Authority's decision is overturned.

## **7.2. Planning Authority Response**

7.2.1. The Planning Authority's response can be summarised as follows:

- The applicant does not satisfy the housing need criteria for a dwelling house at this location and to permit an additional dwelling house on this site would contravene the rural settlement strategy as set out in the Development Plan, specifically Objective RF20, and it would also be contrary to National Planning Policy.
- Adequate sightlines to serve the proposed development were not demonstrated and the intensification of vehicle use of the access would represent a traffic hazard.

- The Board is requested to uphold the decision of the Planning Authority; however, should the Board be minded to grant permission it is requested that a Section 48 financial contribution be imposed.

### 7.3. Observations

7.3.1. The observation received from the **DAA** can be summarised as follows:

- The proposed development is located within the former Outer Airport Noise Zone and the newly adopted Noise Zone C. Therefore, Objective DA07 is applicable.
- It is requested that further information or a condition be imposed in the event of a grant of permission being made in relation to the following matters:
  - The existing and predicted noise environment of the site to be fully assessed with consideration for future airport growth.
  - Demonstration that internal noise levels appropriate for the proposed development can be achieved and maintained.
  - Appropriate noise mitigation measures should be imposed and implemented.

## 8.0 Assessment

### 8.1. Introduction

8.1.1. By way of this appeal the appellant seeks that the Board overturn the decision of the Planning Authority to refuse planning permission for a development that consists of the demolition of a single storey former dwelling which is referred to as 'Dowling Lodge' in the documentation submitted with this application and a separate garage structure on site together with the construction of a new detached dormer style 4 bedroom dwelling house with a separate detached garage to serve the proposed dwelling and the construction of another detached garage to serve the existing dwelling on site together with all associated site works and services including the proposed modification of an existing entrance onto Baskin Lane to serve both the proposed and existing dwelling.

8.1.2. As set out under Section 4 of this report above the Planning Authority refused planning permission for the proposed development on two separate grounds.

- 8.1.3. The first relates to the applicant's failure to satisfy the Planning Authority that they had a demonstrable economic and/or social need to live in a rural area nor did they demonstrate compliance with their rural settlement strategy as set out under the Fingal Development Plan, 2017 to 2023. It also considered that as the applicant had already a house on the site permitting an additional one would contribute to the encroachment of random rural development in the area as well as would further militate against the preservation of the rural environment and the efficient provision of public services through to infrastructure.
- 8.1.4. The second reason for refusal related to the proposed development failing to demonstrate the required 90m sightlines to the east of the modified entrance onto Baskin Lane. It also raised concerns that the works that would be required to achieve the required sightline were outside of the applicant's control.
- 8.1.5. I consider it incumbent at this point to raise a number of additional concerns to that raised by the Planning Authority in their reasons for refusal. These concerns mainly relate to residential and visual amenity impact of the proposed development on its setting. They include the manner in which the proposed fragmentation of the land parcel itself is put forward in this application in relation to the creation of a new subdivision for the existing dwelling. With this existing dwelling being sited on an extremely irregular 0.125ha which I note is the absolute minimum site area for a dwelling within a 'Rural Cluster' as provided for in the current Development Plan, and, the potential for this dwelling to have a further reduced amenity arising from their private amenity space including its private amenity space being overlooked by vehicles access and egressing to the subdivision in which the proposed dwelling would be sited to the north west. This proposed subdivision for the new dwelling is also indicated as encompassing another 0.125ha site with the remaining land to the east of both of these two proposed subdivisions being indicated as whilst forming part of the appeal site area in red and outside of the appeal site area in blue i.e. still within the applicants legal interest, neither forming a functional or physical part of either of the new residential subdivisions proposed. Further there is no indicated use for this land outside of some notional planting in the vicinity of the proposed modified entrance and on the opposite side of the driveway within the vicinity of Dowling Lodge, the structure for which demolition is sought.

- 8.1.6. Moreover, the area to the immediate north of the appeal site, i.e. the blue line area indicated in the Site Layout Plan consists of another parcel of land that is in the applicants shared ownership. This 0.294ha area of land has been excluded from the site area itself and has been subject of previous development application for residential development as part of previous recent applications sought for the applicant's landholding in the townland of Cloghran. In effect creating what would appear to be potentially another development site. This together with the placement of the proposed dwelling to the rear of dwellings fronting onto the stretch of Baskin Lane the site forms part of gives rise to the concern that this is a poorly resolved backland site that lacks sufficient clarity on what is proposed for the remaining 0.294ha area of land which this application essentially seeks to not consolidate into either of and/or shared between the existing and proposed dwelling the subject of this application.
- 8.1.7. Thus not only does the proposed development in this instance puts forward backland residential proposal which is a type of development that is not only uncharacteristic of its site setting and it is also a proposal which would arguably reinforce other such non-sympathetic developments that have occurred along Baskin Lane as well as within the wider vicinity. Of further it is an example of a piecemeal and poorly considered development relative to its site context which would result in the further encroachment of buildings into this green belt landscape that is acknowledged to be a precious resource; a resource that is under significant strain from similar developments in this area by way of its designation locally through to nationally as land under strong urban influence; and, a landscape setting that has been diminished significantly by the proliferation of one-off residential developments with many having no intrinsic or tangible economic through to social need to have been provided within open countryside outside of settlements.
- 8.1.8. Moreover, the layout put forward, including the siting of the proposed dwelling itself; the on-site vehicle and pedestrian access serving both the proposed and existing dwellings; the alignment of new internal site boundaries including entrances serving both the proposed and existing dwellings through to the residual land to the east of the access road aligning with the proposed dwelling and extending further northwards terminating alongside the southern boundary of the 0.294ha blue lined area of land is in my view indicative that future development appears to be a likely potential scenario.

- 8.1.9. The Board may consider the issues raised on the matter of the layout as a new issue in their consideration of this appeal case. Notwithstanding, I consider it does bolster the Planning Authority's first reason for refusal which raises the concern of encroachment of this type of development in this sensitive location whose capacity to absorb such ad hoc developments where settlement strategy requirements has not been demonstrated has been significantly exceeded to the detriment of the visual amenities of this green belt landscape setting.
- 8.1.10. In relation to the demolition of the building referred to as 'Dowling Lodge '. This building appears to be the remnants of a vernacular single storey structure. Though not of any specific architectural merit its proposed demolition is sought as part of to facilitating the provision of a modified entrance onto Baskin Lane to accommodate both the proposed and existing dwelling on site.
- 8.1.11. I consider its demolition from a built heritage perspective would be disappointing as it would result in further loss of a sense of place and identity along what was a country lane whose current appearance has been much eroded by ad hoc detached dwellings and buildings of no particular architectural merit, quality and/or coherence of design through to materials.
- 8.1.12. On this point I note that the Development Plan seeks the protection of vernacular buildings under Objective RF64. This objective seeks to retain, appreciate and revitalise appropriately the vernacular building stock of Fingal including by way of adaption through to reuse where they contribute to the character of a rural area. In addition, Objective RF65 of the Development Plan seeks to discourage their demolition.
- 8.1.13. I therefore question the merits of the demolition of this building particularly having regard to the fact that this proposal also seeks to construct two garage type buildings of similar sizes where no justification has been provided as to why the design resolution for visual amenity through to sustainability of resources not seek to ensure that this building is reused and adapted to possibly meet a garage use for one of the dwellings. In particular the existing dwelling house due to the proximity of this structure to it.
- 8.1.14. In relation to the demolition of the other garage structure on site I consider it is of no architectural merit or other significance; however, it is of structure that has been added

to the site by the applicant during her ownership of the land and it is of a similar footprint to the detached structure proposed to serve the proposed dwelling. Of further concern it is located in close proximity to this proposed detached garage structure. Arguably the design resolutions approach to demolition as put forward in this application based on these considerations is not a very sustainable one nor is it site context sensitive in terms of the proposed loss of 'Dowling Lodge'. No examination and/or justification has been given to why either building, particularly Dowling Lodge, is not of merit of utilising and adapting as part of the scheme.

8.1.15. In terms of 'Dowling Lodge' being a modest surviving example of vernacular buildings within Fingal nonetheless it does add to the visual qualities of this stretch of Baskin Lane and I therefore consider its demolition to be contrary to Development Plan Objectives RF64 and RF65.

8.1.16. I also consider that both structures for which demolition is proposed by way of this application, if permitted, facilitating the further future possibility of rationalising the remaining land outside of the two subdivisions within the red line area of the site and also the adjoining blue line area to the immediate north of the site for future development, i.e. it effectively allows for the consolidation of buildings in close proximity to one another within respective newly proposed subdivisions in the absence of any transparent Master Plan or cohesive overview of the anticipated use of the land outside of the proposed two subdivisions.

8.1.17. I also raise a concern in relation to the proposed design in that positioning what is essentially a part single storey and part two storey dwelling in terms of its impact on the established residential amenities of properties adjoining it, particularly the single storey dwelling houses located to the south west and south whose rear garden area, i.e. private open space amenity, would be overlooked from the first floor level of the proposed development. Whilst one could argue that this level of overlooking might be deemed to be acceptable in a suburban setting this is a rural cluster within open countryside where the predominant residential built form is linear in its nature. Thus, the rear garden areas of these properties benefit from private open spaces that are not significantly overlooked to this degree and it is not in my view unreasonable to conceive that when these dwellings were constructed that backland development would arise in an *ad hoc* uncoordinated manner eroding this important residential provision.

8.1.18. Outside of these concerns I consider that the general residential amenity of the proposed dwelling would be of a satisfactory standard and I consider that the substantive issues that remain outstanding in this appeal case are the Planning Authority stated reasons and considerations of refusal. In my view these can be dealt with under the following broad headings:

- Principle of the Proposed Development & Compliance with Rural Settlement Policy.
- Modified Access onto Baskin Lane.
- Appropriate Assessment.

8.1.19. I propose to deal with these matters in turn in my assessment below.

## 8.2. Principle of the Proposed Development

8.2.1. I have already dealt with the principle of demolition of 'Dowling Lodge' and an existing garage in Section 8.1 above. I do not propose to revisit my conclusions on the same.

8.2.2. In terms of the principle of the proposed construction of a dwelling, the site and the adjoining property immediately to the west are zoned 'Rural Cluster' under the Fingal Development Plan, 2017 to 2023. The land use objective for such lands is to: "*provide for small scale infill development serving local needs while maintaining the rural nature of the cluster*". I reiterate that this land use objective is restricted to the red line area of site and the adjoining parcel of land to the west only.

8.2.3. The stated vision for land zoned 'RC' is to: "*provide a viable alternative to settlement in the open countryside, and support small-scale infill development by providing the rural community with an opportunity to choose more rural-style housing than is provided within the Rural Villages, and by facilitating the development of small scale and home-based enterprise among members of the rural community*" and in relation to development that is deemed to be permitted in principle this includes residential subject to the *proviso* of demonstrating compliance with the rural settlement strategy.

8.2.4. In addition, Section 2.8 of the Development Plan states that the: "*rural clusters serve as areas where members of the rural community can live as an alternative to housing in the open countryside*"; and, Section 2.9 of the Development Plan, indicates that these small settlements will play an important role in accommodating rural generated

housing need in Fingal County by helping to contain pressure for housing in the open countryside.

- 8.2.5. Further Objective RF19 of the Development Plan states that the Planning Authority shall: “*encourage consolidation of rural housing within existing Rural Clusters which will cater for rural generated housing demand, as an alternative to housing in the open countryside, and encourage the reuse of existing buildings within the cluster over any new development*”; and, Objective RF20 of the Development Plan states that the Planning Authority shall: “*permit only persons with a rural-generated housing need, as defined within this section of the Plan*”. It also goes on to state that a minimum site area of 0.125ha is required where connecting to a public sewer.
- 8.2.6. Chapter 5 of the Development Plan provides a definition for ‘*rural-generated housing need*’ as either: “*persons currently living and who have lived continuously for the past ten years or have previously lived for a minimum of ten continuous years*”, or “*persons working continuously for the past ten years*”.
- 8.2.7. The Planning Authority concluded that the provision of housing within rural clusters within the County is for the purposes of facilitating those with a rural housing need and the applicant has declared that she co-owns the existing dwelling on the site. They considered that notwithstanding the reduction of houses by one from that proposed under the previous application which was refused on appeal to the Board under ABP-303113-18 (P.A. Reg. Ref. No. F18A/0516) it remains their view that the applicant does not have a demonstratable rural generated housing need by virtue of already owning the existing dwelling house on the site and the documentary evidence demonstrating 10 continuous years residing in this locality does not overcome this fact.
- 8.2.8. The Planning Authority therefore considered that the applicant did not have a defined rural generate housing need and having regard to National Policy Objective 19 of the National Planning Framework there is a requirement to demonstrate a “*demonstratable social or economic need*” for an additional dwelling at the site. Thus, to permit the proposed development would be contrary to both local and national planning provisions.
- 8.2.9. Like the previous development proposed for the site and determined by the Board again the central argument put forward for the proposed development stems from the appellants marital breakdown with the other named co-owner of the existing dwelling

on the site. In addition to the appeal submission the appellant has also provided additional supplementary information that includes but is not limited to land title through to bills with a corresponding address of Baskin Lane.

8.2.10. I do not consider in this instance case that it could be reasonably considered that the appellant has a genuine rural housing need as opposed to a desire to construct an additional dwelling to the rear of a dwelling in which she co-owns as well as contends to reside.

8.2.11. The Development Plan policy provisions for rural clusters in my view is clear and I concur with the Planning Authority that the appellant in this case has not satisfactorily demonstrated a rural generated housing need as per the requirements of the Development plan and that the proposed development of an additional dwelling house, which I note is not insubstantial in itself with it containing 4 bedrooms, at a backland location on a site where they already own an existing 6 bedroom dwelling house would be in material contravention of Objective RF20 of the Development Plan and it would also be contrary to the National Policy Objective 19 of the National Planning Framework which essentially seeks to facilitate the provision of housing based on the core consideration of demonstrable economic or social need to live in a rural area. Also in relation to the applicants employment the ability to work from the proposed home is not necessarily a tangible connection per se to live in this particular rural location and there is no clarity that her employment operates solely or partially from this location nor is it a type of business that is synergistic to this particular locality.

8.2.12. Furthermore, the site due to its proximity to a number of strong urban centres including Dublin forms part of a larger parcel of land which is identified as being under strong urban influence. In such areas there is a presumption against the type of development as proposed under this application and Objective SS07 states that the Planning Authority indicates that applicants will have to demonstrate compliance with the criteria for rural housing set down in the Development Plan.

8.2.13. The Sustainable Rural Housing Guidelines for Planning Authorities, 2005, set out examples of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'. Whilst it would appear that the appellant has been a part of this rural community for above the 10 years required

under the Development Plan criteria it is considered that the Development Plan and the National Planning Framework provide more robust local through to national planning policy criteria for such a development.

8.2.14. The appellant does not come within the scope of the housing need criteria as set out under relevant planning policy provisions for a dwelling house at this location and the proposed development would, if permitted, be contrary to the proper planning and sustainable development of the area. This in itself is substantive reason to merit a refusal of the proposed development sought under this application.

8.2.15. In terms of the modest parcel of land to which the 'RC' zoning applies to and relative to its juxtaposition to green belt land, i.e. land immediately to the north, east, on the opposite side of the road to the south and neighbouring land to the west this land use zoning is the predominant land use of surrounding area the site forms part of.

8.2.16. I note that the land use objective for such land is to: "*protect and provide for a Greenbelt*" which also has a stated vision to: "*create a rural/urban Greenbelt zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and urban areas*".

8.2.17. I therefore consider it incumbent to note at this point that the Development Plan under Section 11.4 provides for 'Transitional Zonal Areas' and it indicates that it is necessary to avoid developments that would be detrimental to the amenities of the environmentally sensitive zone. Which in this case would be the surrounding green belt land. The Development Plan reiterates this under Objective Z04 which states that the Planning Authority shall: "*have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals in the vicinity of zoning boundaries*".

8.2.18. I have previously raised my concerns in relation to the appropriateness of this piecemeal backland development proposed under this application which together with other similar *ad hoc* developments are a type of development that are out of character with residential development in what is otherwise open countryside that is under strong urban influence and that together the significant number of one-off dwellings has diminished the attractiveness; intrinsic rural qualities of this area through too has resulted in mismatch of unsympathetic built forms and boundary treatments with the latter having resulting in the loss of rural hedgerows and trees which in itself is

detrimental to the biodiversity of this rural area. Altogether these have had a cumulative adverse visual impact on the character and quality of this particular green belt area as it currently presents.

8.2.19. Based on these concerns I concur with the Planning Authority's conclusions that the proposed development, if permitted, would contribute towards the prevalence of random rural development in the area and it would mitigate against the preservation of the rural environment.

8.2.20. Further, having regard to the low density of such development, albeit the provision of public mains drainage, I consider that there is also merit in the Planning Authority's conclusion that this type of development is not sustainable in terms of the provision of public services, infrastructure and I add amenities such developments require.

### **8.3. Modified Access onto Baskin Lane**

8.3.1. The Planning Authority's second reason for refusal considered that the proposed development does not achieve the required sightlines of 90m to the east onto Baskin Lane and considers in order to achieve this sightline works would be required on lands outside of the applicant's control. It further considered that the consent provided does not relate specifically to the proposed development but to the development sought previously under P.A. Reg Ref. No. F18A/0516 which I have set out under Section 5.1 of this report above was refused on appeal to the Board.

8.3.2. I note that the Planning Authority's Transportation Section whilst considering that each dwelling had sufficient space to accommodate two in-curtilage car parking spaces raised a number of concerns in relation to the proposed modified entrance onto Baskin Lane. Having examined the drawings they noted that the sightline drawing provided is superimposed on an OS Map and that it is not based on a topographical survey of the actual situation. They also raised concerns that it provided incorrect sightlines which they note should be taken from the nearside edge of the road in both directions from a 2.4m setback. Based on their examination of they concluded that the sightlines to the east of the modified entrance are closer to c55m when measured from the nearside edge of the road and the required sightlines cannot be achieved without 3<sup>rd</sup> Party consent for works to modify boundaries outside of the applicant's control. As such they concluded that the proposed entrance put forward in this application

represented a traffic hazard and they therefore requested additional information to address these concerns.

- 8.3.3. The appellants in their grounds of appeal submission make note of a letter purported to be from the adjoining landowner to the east indicating that he provides his consent to alter his road entrance along Baskin Lane acknowledging that these works will include the reconstruction of existing pillars at a setback location. Nothing has been provided to substantiate that this letter can be without doubt from the actual landowner itself nor is it in the form of an affidavit. Similarly, is the case in relation to the letter of consent provided by the purported owner of the second property to the east of the appeal site on Baskin Lane who indicates that he consents to the trim back of his hedgerow by the appellant when necessary in order to improve sightlines from the proposed new site entrances. Of further concern there is no indication that any fetter would be provided on this landholding should it change hands. Both of these letters date to the month of November, 2018. Updated letters have been provided by both of these property owners dating to the month of January, 2020, as part of the documentation submitted with this appeal.
- 8.3.4. Of further concern is that whilst letters of updated consent from the two adjoining landowners to the east have been provided this does not overcome the inaccuracies of the sightline drawing presented as part of the suite of drawings accompanying this application. This drawing is not based on an accurate examination of the site boundary context nor the adjoining properties in either direction and the obstructions particularly to the east are more manifest than the trimming back of hedgerow and the setting back of the adjoining piers. The latter brings forward potential legal issues in the event of a change of ownership and further the documentation provided does not demonstrate the scope of modifications that would be required in a manner that without demonstrate unequivocally that they would accord with relevant current standards.
- 8.3.5. I am therefore not satisfied that the documentation submitted to date has demonstrated that the required sightlines from the modified entrance to serve the proposed development and the intensification of use proposed for the appeal site can be achieved. In light of these considerations I concur with the Planning Authority's second reason for refusal which I consider is with substantive in merit. Notwithstanding, the Board could if they wish to seek additional information on this matter should they be minded to grant planning permission.

#### 8.4. **Appropriate Assessment**

- 8.4.1. As set out in Section 6.3 of this report above the nearest designated European sites are Malahide Estuary SPA (Site Code: 004016); Baldoyle Bay SAC (Site Code: 000199); Malahide Estuary SAC (Site Code: 000205); and, Baldoyle Bay SPA (Site Code: 004016) which are located between c3.9km to c4.6km as the bird would fly from the site in a northeast and an easterly direction from the appeal site. I note to the Board that the Sluice River which drains into Baldoyle Bay is located c200 metres to the north of the subject site. The site benefits from public mains drainage through to a potable water supply. There is no evidence of flooding at or in the vicinity of the site.
- 8.4.2. Having regard to the conservation objectives of the nearest European sites I consider that there would be no direct impacts on these sites and no loss of habitat or fragmentation arising as a result of the development.
- 8.4.3. I consider that this is also the case for other European sites within a 15km radius of the subject site.
- 8.4.4. In terms of indirect effects, the source pathway receptor model must be considered. It is considered that such indirect effects are unlikely due to the scale of the development proposed under this application which is essentially the demolition of an existing garage through to the construction of a dormer dwelling and like the existing dwelling on site which would be maintained it will be connected by way of a new separate connection to the existing municipal network and includes measures to address the treatment of surface water.
- 8.4.5. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European Sites Malahide Estuary SPA (Site Code: 004016); Baldoyle Bay SAC (Site Code: 000199); Malahide Estuary SAC (Site Code: 000205); and, Baldoyle Bay SPA (Site Code: 004016), or indeed any other European site, in view of their Conservation Objectives, and a Stage 2 Appropriate Assessment (and the submission of a NIS) is not, therefore, required.

#### 8.5. **Other Matters Arising**

- 8.5.1. **Noise:** I raise concern that this application is not accompanied by a Noise Impact Assessment through to any clarity on mitigation measures that would be included in

the design and build of the proposed dwelling house despite the appeal site being located within Dublin Airport 'Noise Zone C'. I therefore consider the requirements of the observer to this appeal are reasonable and any grant of planning permission should include the measures they request. Compliance with such measures would in my view give rise to a qualitative internal living environment for future occupants of the proposed dwelling and would ensure that the proposed development accorded with Objective DA07 of the Development Plan.

8.5.2. **Landscaping:** Should the Board be minded to grant permission for the proposed development I consider that the landscaping scheme put forward with this application is negligible in its overall content and that a landscaping scheme is required to settle the proposed development into its setting that immediately adjoins green belt land. Against this context I consider the recommendations of the Planning Authority's Park Department is more than reasonable and should be imposed as far as is practicable by way of condition.

8.5.3. **Irish Water:** Irish Water requested additional information to address public water and wastewater infrastructure concerns in order to assess whether the connection of the proposed development is feasible. Should the Board be minded to grant planning permission I recommend that clarification of these matters should be first sought.

## 9.0 Recommendation

9.1. I recommend that planning permission be **refused**. The Board may consider the second reason for refusal a new issue.

## 10.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence, as identified in the current Fingal County Development Plan, the Sustainable Rural Housing Development Guidelines 2005, and to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government, 2018, which, for rural areas under urban influence, seeks 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 does not come within the scope of the housing need criteria as set out in the Guidelines and does not comply with National Policy Objective 19. The proposed development, in the absence of any identified locally based need for two additional dwellings at the site, 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.

2. The proposed development, because of its location, constitutes inappropriate backland development which would seriously injure the amenities of property in the vicinity by reason of loss of privacy, loss of visual amenities on land bounded by green belt in open countryside, uncoordinated piecemeal development, and accordingly would be contrary to the proper planning and sustainable development of the area
3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on Baskin Lane at a point where sightlines are restricted in an easterly direction.

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Patricia-Marie Young  
Planning Inspector

20<sup>th</sup> day of April, 2020.