



An  
Bord  
Pleanála

## Inspector's Report ABP 307483-20

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<b>Development</b>	Construction of a farmhouse, wastewater treatment system and percolation area, entrance walls and piers.
<b>Location</b>	Killeen, Oldtown, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F20A/0089
<b>Applicant(s)</b>	Laurence J and Teresa Collins
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Laurence J and Teresa Collins
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> September 2020
<b>Inspector</b>	Brendan Coyne.



## 1.0 Site Location and Description

1.1. This site (0.46 ha) is located on the northern side of a private road, close to a junction with a local rural road, in the townland of Killeen, c. 7 km to the north-west of Swords in Co. Dublin. The site is currently undeveloped and comprises part of a large open field. The main body of the site, as outlined in red, is rectangular in shape and is set back c. 32m from the road. An existing agricultural entrance and laneway provide access to the site, located at its south-eastern corner. The agricultural laneway adjoins the eastern boundary of the site, providing access to a farm building and yard, located further to the north-east. The northern, western and southern boundaries of the site are currently defined with timber post and wire fencing. The roadside boundary of the site is defined with mature hedgerow and trees. The ground level of the site is relatively flat. Lands to the east of the site, within the applicant's family landholding as outlined in blue, contain a hen house shed, polytunnel, pigsty, vegetable / fruit garden area and a stone shed. The farm building and yard to the north-east of the site is used to accommodate cattle and the storage of vegetables. The private road providing access to the site serves two other dwellings, located further to the west. The surrounding area is characterised by agricultural land, equestrian land use and dispersed rural one-off housing.

## 2.0 Proposed Development

2.1.1. Permission sought for the following;

- Construction of a detached 2 storey 5-bedroom dwelling (361.2 sq.m.),
- Upgrading of the existing roadside entrance, leading to a new vehicular entrance and access driveway, serving the proposed new dwelling.
- New wastewater treatment system and percolation area,
- Associated site works.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Fingal County Council REFUSED permission for the proposed development. The reason for refusal was as follows:

1. The site is located within the 'RU' zoning objective under the Fingal Development Plan 2017 – 2023, the objective of which is to 'protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape and the built and current cultural heritage' and in a 'Rural Area Under Strong Urban Influence' in the 'Sustainable Rural Housing Guidelines For Planning Authorities' (DoEHLG,2005). Furthermore, it is national policy in such areas under urban influence, as set out in National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in such rural areas on the urban influence. Having regard to the documentation submitted with the application, the applicants have not demonstrated their eligibility to be considered for a dwelling in the rural area of Fingal on the basis of his 'involvement in the family farm'. The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017 - 2023 including Objective RF36 and objective RF38 and would be contrary to the Ministerial Guidelines and to the overarching national policy in the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

##### 3.1.1. **Planning Reports**

##### 3.1.2. Basis for the Planning Authority's decision. Includes:

- The information submitted confirms that there is a farm operating on the applicant's landholding.

- The applicant Laurence Collins grew up on a farmstead at Mount Ambrose, Swords, Co. Dublin some 5 km from the application site. However, these lands are farmed by the applicant's brother and are not within the applicant's ownership.
- The applicants do not comply with Objective RF36 of the Fingal County Development Plan whereby 'new housing for farming families' are required to demonstrate that 'the proposed dwelling will be located on a farm where the applicant's family currently resides'.
- There is no existing family home at the application site.
- The applicants reside in the urban area of Swords and not on a working family farm. As such, the applicants do not comply with the requirements of Objective RF38 (Part vi) of the Development Plan which requires that the applicant provides evidence that the applicant resides on a working family farm.
- The extent of the landholding exceeds the required minimum thresholds as set out under Objective RF38 of the Development Plan i.e. 15 ha for livestock or mixed livestock / tillage.
- The Planning Authority has concerns with regards the design and visual impact of the proposed dwelling on the visual amenity of the surrounding rural area.

### 3.1.3. Other Technical Reports

**Transportation Section:** Further Information requested addressing sightlines at the entrance to the site.

**Water Services Department:** No objection subject to conditions.

### 3.1.4. Prescribed Bodies

**Irish Water:** No objections.

## 4.0 Planning History

- 4.1.1. **P.A. Ref. RA160705** On the 03<sup>rd</sup> August 2017, Fingal County Council REFUSED permission to Laurence Collins for the construction of 1 no. detached, 2 storey dormer,

four-bedroom dwelling; 1 no. agricultural building; on-site proprietary wastewater treatment system; new vehicular access; landscaping; boundary treatment and all associated site development and engineering works necessary to facilitate the development.

The 4 no. reasons for refusal can be summarised as follows:

Reason No. 1: The proposed development would contravene materially Objective RF38 of the Fingal Development Plan 2017 – 2023, with regard rural housing need.

Reason No. 2: Absence of satisfactory details in relation to sightlines at the proposed vehicular entrance and measures to adequately provide for the separation of vehicles accessing the proposed dwelling and the agricultural building.

Reason No. 3: The form, scale and design of the proposed dwelling would seriously injure to the visual amenity of the rural area.

Reason No. 4: The extent of farming activity which the applicant is engaged appears from the documentation submitted to be minimal and the applicant has not provided a sufficient justification for the agricultural building of the scale proposed.

## 5.0 Policy and Context

**Fingal County Development Plan 2017-2023** is the statutory plan for the area.

**Zoning:** The site is zoned objective 'RU - Rural' which seeks 'Protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'.

**Landscape Character Area:** Low Lying Agricultural

5.1.1. The following policy objectives relating to housing in the countryside are noted:

**Objective RF26** Ensure the vitality and regeneration of rural communities by facilitating those with a genuine rural generated housing need to live within their rural community.

**Objective RF27** Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the open countryside.

**Table RF02** outlines eligibility for housing in the open countryside under the Rural Settlement Strategy.

**Objective RF33** Require that any house which is granted planning permission in the areas with the zoning objective, RU, HA, or GB will be subject to an occupancy requirement whereby the house must be first occupied as a place of permanent residence by the applicant and/or members of his/ her immediate family for a minimum period of seven years.

**Objective RF36** Demonstrate that any proposed dwelling is for use as the applicant's primary residence and the proposed dwelling will be located on a farm where the applicant's family currently resides.

**Objective RF38** Demonstrate that the farm has been a working and actively managed farm in the ownership of the applicant's family for a minimum of three years preceding the date of the application for planning permission.

The applicant will be required to demonstrate the following in relation to their working of the family farm:

- (i) The applicant is a member of a family which operates a farm within the rural area of Fingal and is actively engaged in farming the family farm. Verifiable documentary evidence (such as dated and stamped Land Registry Documentation) showing details of the farm ownership, details of the family relationship with the farm owner, and the nature of the applicant's involvement in farming the family farm will be required.
- (ii) The farm on which the application for planning permission for a rural house has been submitted has been a working and actively-managed farm in the ownership of the applicant's family for a minimum of three years preceding the date of the application for planning permission.
- (iii) The location of the family home on the existing farm.

- (iv) The location of all other houses on the family farm which have been granted planning permission since the 19th October 1999. Submission details will include the date of grant of planning permission and the Council's file Register Reference under which any Planning Permissions were granted.
- (v) The family farm has been a working farm for the preceding three years. The criteria which are considered to constitute a working farm and the size thresholds for various types of farm are set out below. The minimum threshold area of a farm excludes the area of the farm occupied by the farm yard and farm buildings, the area of the existing family home and its curtilage, and the area of the site of the proposed dwelling.
- (vi) Documentary evidence that the applicant resides on a working family farm within the planning application.

**Objective RF39** Permit new rural dwellings in areas which have zoning objectives RU, or GB, on suitable sites where the applicant meets the criteria set out in Table RF03.

**Table RF03:** Criteria for Eligible Applicants from the Rural Community for Planning Permission for New Rural Housing

- (i) One member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant for planning permission for a house on the basis of close family ties shall be required to provide documentary evidence that:
  - S/he is a close member of the family of the owners of the family home.
  - S/he has lived in the family home identified on the application or within the locality of the family home for at least fifteen years.
- (ii) A person who has been in employment in a full-time occupation which is considered to satisfy local needs by predominantly serving the rural community/economy for fifteen years prior to the application for planning permission, and has not already been granted planning permission for a new

rural dwelling since the 19th October 1999. Documentary evidence of such employment is required.

- (iii) A person who is an immediate member of a rural family who has not been granted permission for a rural dwelling, since the 19th October 1999, and is considered to have a need to reside adjacent to the family home by reason of that person's exceptional health circumstances. The application for a rural dwelling must be supported by two sworn affidavits from relevant and qualified professionals, with at least one from a registered medical practitioner. A qualified representative of an organisation which represents or supports persons with a medical condition or disability may supply the other. It is to be noted that criterion no. (iii) applies in areas which have zoning objective, HA, as well as in areas with zoning objective GB and RU.
- (iv) A 'bona fide' applicant who may not already live in the area, nor have family connections there or be engaged in particular employment or business classified with the local needs criteria, subject to the following considerations: Such applicants will be required to satisfy the Council of their long term commitment to operate a full-time business from their proposed home in a rural area, as part of their planning application. The applicant will outline within a submitted Business Plan how their business will contribute to and enhance the rural community, and will demonstrate to the satisfaction of the Council that the nature of their employment or business is compatible with, and addresses and satisfies local needs, and will protect and promote the rural community. The applicant will satisfy the Council that the nature of their employment or business is dependent on its location within the rural area so as to discourage applicants whose business is not location dependent. The applicant will demonstrate their commitment to the proposed business through the submission of a comprehensive and professionally-prepared Business Plan, and through submission of legal documentation that they have sufficient funding committed to start and operate the business. Applicants whose business is not location-dependent will not be considered.

**Objective RF70** Protect and promote the sustainability of rural living by facilitating rural-related enterprise for rural dwellers.

**Objective RF74** Support the maximum number of sustainable, working farms within the County, and ensure that any new development does not irreversibly harm the commercial viability of existing agricultural land.

**Objective RF79** Support and facilitate the growth of the agri-food sector in Fingal.

**Objective RF104** Promote the sensitive re-use and adaptation of existing farm buildings for farm diversification. Where a new building is necessary, it shall be sited, where practical, in or adjacent to the existing group of farm buildings and shall relate to existing buildings and the surrounding countryside in terms of design, siting, and materials.

## 5.2. Other Relevant Government Guidelines

### 5.2.1. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those within proximity to the immediate environs or close commuting catchment of large cities and towns. 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'.

### 5.2.2. National Planning Framework – Project Ireland 2040

**NPO19** Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, 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 and siting and design criteria for rural housing in

statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **Natural Heritage Designations:** The site is located c. 8km to the west of the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208).

#### 5.4. **EIA Screening**

5.5. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

A first-party appeal was received from Future Analytics Consultancy Ltd. representing the applicants Laurence J and Teresa Collins, against the decision made by the Planning Authority to refuse permission for the proposed development. The main grounds of appeal are summarised under the headings below;

##### 6.1.1. **Applicants involvement in farming and their need for a rural house:**

- The subject holding comprises a working family farm.
- The applicant's family currently operate and manage the farm.
- The proposed dwelling is for use as the applicant's primary residence.
- The applicants are committed members of a farming family involved in the running of a viable 27-hectare farm.

- The site of the proposed dwelling has been in the ownership of the applicants since 2012 and 2014. Stamped Land Registry folio details submitted.
- The applicants comply with the requirements of Objective RF38 of the Fingal Development Plan. Supporting documentation lodged with the application include the following;
  - Folio Numbers and screen shots of Land Registry records showing the family farm at Mount Ambrose has been in the Collins family ownership for generations.
  - Folio Numbers, stamped Land Registry documents and screen shots showing that the family farm at Killeen is in the ownership of the applicants.
  - Letters from the following, establishing the applicant's extent of farming activities;
    - Dept. of Agriculture establishing herd numbers and registration for cattle, pigs and poultry - dated July 2015 and September 2019.
    - Bord Bia Certification for beef and lamb - dated Sept. 2019.
    - Department of Agriculture heard profile documentation - dated 2017 to 2020.
    - Irish Angus Producer Group Registration - dated October 2019.
    - Heard number established in 2015.
    - Irish Hereford Prime CLG Registration - dated October 2019.
    - IFA membership subscription renewal - dated January 2020.
    - Farm accounts for 2018 and 2019 along with VAT returns detailing expenditure over the last number of years to sustain a viable working farm.
    - Kepak remittance documents for animals sold - dated November 2019.
    - Farm accounts provided for 2017, 2018 and 2019.
- The applicant Laurence J. Collins grew up on a family farm at Mount Ambrose, c. 5 km from Killeen, which is where his lifelong love of farming came from. Since

1968, he has worked full and part-time on the family farm at Mount Ambrose, attended Warrenstown College (1977-79), held a position of farm manager in Meath (1979-1981) and in recent years on the Killeen farm (2012 -2020). This involvement overlaps with 35 years working in the agri-food sector with Ornuá (retiring in 2020) dealing with farmers, Co-ops and farm organisations.

- The applicant Teresa Collins is full-time farming, has a farming background and has worked in the agri sector for over 25 years.
- The applicants bought the farm in 2012 and have invested their lifesavings in the farm including repairing / rebuilding farm buildings, construction of new sheds, drainage, planting of trees / hedgerow, developing organic vegetables / orchards and a biodiversity area.
- The applicants have developed a viable farm enterprise which they hope to grow further. However, to achieve this the applicants need to live on the farm to ensure they can take care of their animals, property and crops. Travelling to and from the farm up to 3 times a day is impractical with regards animal husbandry and security.
- The applicants have on occasion had to spend a night on the farm (in a jeep) in order to watch over sick animals and on one occasion respond to a fire in one of the sheds.
- The original Collins family farm is located 5 kilometers from the subject site at Mount Ambrose, as detailed on maps submitted.
- The opportunity to build a family home as Mount Ambrose never arose due to personal circumstances.
- The information submitted with the application clearly demonstrates that the farm has been active and is a viable holding for the preceding three years. Although the Collins family farm is not located on this farm, it is within 5 kilometers of the site in the same zoning area.
- An Bord Pleanála have established precedent for similar development with the grant of permission for a herb farm including a farmhouse at Ballyvannan, Tuamgraney, Co. Clare under PL03.223057 (P06/3051).

### 6.1.2. **Development Plan policy regarding rural housing**

- The applicants farm holding of 27 hectares exceeds the Development Plan minimum size threshold for a farm, i.e. 15 hectares.
- The application is sustained by Objective RF74 of the Development Plan which seeks to support the maximum number of sustainable, working farms within the County, and ensure that any new development does not irreversibly harm the commercial viability of existing agricultural land.
- The application is sustained by Objective RF79 which seeks to support and facilitate the growth of the agri-food sector in Fingal County.
- The application is sustained by Objective RF104 which seeks to promote the sensitive re-use and adaptation of existing farm buildings for farm diversification.
- The applicants have demonstrated and fully justified their eligibility for a rural dwelling under Section 5 of the Fingal County Development Plan.
- The Planning Authority's decision to refuse permission contradicts Objective RF70 which seeks to support the maximum number of sustainable, working farms within the County, and ensure that any new development does not irreversibly harm the commercial viability of existing agricultural land.
- The Planning Authority's decision ignores the support of family diversification and in particular Objective RF104 which recognizes that reuse and adaptation of existing farm buildings is not always possible and new buildings are acceptable if necessary. There was a farmhouse on the property which is now incorporated into the sheds.
- The Council's planning policy does not directly deal with a scenario where the applicant has purchased a farm and is in compliance with the 3-year rule of actively managing and seeks to build a farmhouse on their property.
- The proposed dwelling will be located on a farm in accordance with Objective RF36.
- The Planning Authority's planning report encapsulates an irrational circular logic and makes a simple decision extremely complex, i.e. "you can't build a house on your farm unless you already live in a house on your farm".

### 6.1.3. **Compliance with the Rural Housing Guidelines and the National Planning Framework**

- The application is supported by the Sustainable Rural Housing Guidelines (2005) which recognises that farming enterprises should be allowed to provide for rural generated housing needs for persons who are an intrinsic part of the rural community (i.e. those who operate and manage the farm).
- The applicants are persons who are an intrinsic part of the rural community under the Sustainable Rural Housing Guidelines for Planning Authorities (DoEHLG, 2005) as they are farmers who have taken over the ownership and running of a farm. Rather than exclude the applicants from acceptance under the Council's rural housing criteria, the Ministerial Guidelines recognise the proactive role that people who own and run farms play in the rural economy.
- The proposed development does not service an urban or commuter based need and is materially compliant with National Policy Objective 19 of the National Planning Framework as it provides for a rural generated farmhouse dwelling on the applicant's farm, which supports sustainable rural enterprise and farming.
- The National Planning Framework supports rural enterprise and farming under Section 5.2.

### 6.2. **Planning Authority Response**

The Planning Authority's comments are as follows;

- The Planning Authority notes that the Fingal Rural Settlement Strategy allows for 'up to two incremental houses in areas with the RU zoning objective, on a family farm for close members who are demonstrated to be actively engaged in the running of the family farm'. The requirements of Objectives RF36 and RF38 reflect this requirement, specifically that there must be an existing dwelling on the farm and therefore any incremental dwellings considered on the basis of involvement in the family farm stem from an existing family home. This requirement is not an anomaly / discrepancy but rather is a deliberate policy which does not provide for circumstances where there is no existing family home.

- The Planning Authority notes the appellants reference to Objective 104. This objective concerns proposals relating to farm structures as distinct from dwellings and as such is not applicable in this instance.
- It remains the opinion of the Planning Authority that the applicants have not demonstrated their eligibility to be considered for a dwelling in the rural area of Fingal on the basis of their 'involvement in the family farm' and as such the proposed development would contravene materially the Rural Settlement Strategy of the Fingal Development Plan including Objectives RF36 and RF38 and would be contrary to the Ministerial Guidelines and to the overarching national policy in the National Planning Framework.

### 6.3. **Observations**

None

### 7.0 **Assessment**

7.1. The main issue for consideration, as raised in the Grounds of Appeal, relates to the applicant's compliance with Fingal County Development Plan policy regarding rural housing need. This is addressed below.

### 7.2. **Rural Housing Need - Planning Authority's Reason for Refusal.**

- 7.2.1. The Planning Authority refused permission for the proposed development on the grounds that the the applicants have not demonstrated eligibility for a rural dwelling at this location. The Planning Authority consider that the proposed development would contravene materially the Rural Settlement Strategy of the Fingal Development Plan 2017 – 2023, with specific reference to Objectives RF36 and RF38 and would be contrary to Ministerial Guidelines and overarching national policy in the National Planning Framework.
- 7.2.2. The applicants' grounds of appeal regarding this reason for refusal is detailed in Section 6.1 above. The applicants put forward a case demonstrating how they comply with the requirements of the Rural Settlement Strategy, with specific regard to the requirements of Objectives RF36 and RF38. This is addressed below.

**7.2.3. Re. Objective RF36**

7.2.4. Objective RF36 requires applicants to 'demonstrate that any proposed dwelling is for use as the applicant's primary residence and the proposed dwelling will be located on a farm where the applicant's family currently resides'. In response to this, the applicants state;

- They currently live in the urban area of Swords.
- The proposed new dwelling will be the applicants' primary residence on completion.
- The subject holding comprises a working family farm.
- The applicants currently operate and manage the farm.

Documentary evidence demonstrating these assertions has been submitted, as detailed in Section 6.1 above.

7.2.5. Having regard to the documentation submitted with the application and appeal, I am satisfied that the proposed dwelling would be the applicants' primary residence in accordance with the requirements of Objective RF36 of the Development Plan. The applicants, however, fail to demonstrate that the proposed dwelling will be located on a farm where the applicant's family currently resides. Details are provided of the applicant Laurence J Collins's family farm at Mount Ambrose, which is stated as having been in the family ownership for generations. This family landholding is located c. 5km from the appeal site. Given the location of this family farm at Mount Ambrose, the applicants do not comply fully with the requirements of Objective RF36 which requires that *'the proposed dwelling will be located on a farm where the applicant's family currently resides'*. I am obliged, therefore, to advise the Board that the proposed development does not fully comply with the requirements of Objective RF36 of the Development Plan.

**7.2.6. Re. Objective RF38**

7.2.7. The Fingal Rural Settlement Strategy states that *'rural-generated housing needs are considered to be the housing needs of people who have long standing existing and*

*immediate family ties, or occupations which are functionally related to the rural areas of the County, and are specifically defined (inter alia) as;*

- *Members of farming families who are actively involved in the family farm which is located within rural Fingal as defined in Objective RF38'.*

7.2.8. Objective RF38 requires applicants to *'Demonstrate that the farm has been a working and actively managed farm in the ownership of the applicant's family for a minimum of three years preceding the date of the application for planning permission. The applicant will be required to demonstrate the following in relation to their working of the family farm:*

- (i) The applicant is a member of a family which operates a farm within the rural area of Fingal, and is actively engaged in farming the family farm. Verifiable documentary evidence (such as dated and stamped Land Registry Documentation) showing details of the farm ownership, details of the family relationship with the farm owner, and the nature of the applicant's involvement in farming the family farm will be required.*
- (ii) The farm on which the application for planning permission for a rural house has been submitted has been a working and actively-managed farm in the ownership of the applicant's family for a minimum of three years preceding the date of the application for planning permission.*
- (iii) The location of the family home on the existing farm.*
- (iv) The location of all other houses on the family farm which have been granted planning permission since the 19th October 1999. Submission details will include the date of grant of planning permission and the Council's file Register Reference under which any Planning Permissions were granted.*
- (v) The family farm has been a working farm for the preceding three years. The criteria which are considered to constitute a working farm and the size thresholds for various types of farm are set out below. The minimum threshold area of a farm excludes the area of the farm occupied by the farm yard and farm buildings, the area of the existing family home and its curtilage, and the area of the site of the proposed dwelling.*

(vi) *Documentary evidence that the applicant resides on a working family farm within the planning application.*

- 7.2.9. Documentation submitted with the application, putting forward the applicant's case for compliance with the criteria under Objective RF38 are detailed in Section 6.1 above.
- 7.2.10. Having reviewed the documentation submitted and having inspected the site and farming activities carried out of the applicants landholding, I am satisfied that the applicants are members a family which operates a farm within the rural area of Fingal and are actively engaged in farming the family farm. The documentation submitted demonstrates that the farm has been a working and actively managed farm in the ownership of the applicants for a minimum of three years preceding the date of the application for planning permission. The size of the farm at 27 hectares exceeds the Development Plan minimum size threshold for a farm, i.e. 15 hectares.
- 7.2.11. The applicants, however, fail to demonstrate the location of the family home on the existing farm and submit documentary evidence that the applicants reside on a working family farm within the planning application. On this basis, I am obliged to advise the Board that the applicants does not fully comply with the requirements of Objective RF38 of the Development Plan. Such development would materially contravene the 'RU' zoning objective of the site, whereby dwellings on such zoned lands require compliance with the objectives of the Fingal Rural Settlement Strategy.
- 7.2.12. Having regard to the provisions under Section 37 Subsection 2 (a) & (b) of the Planning and Development Act 2000 (as amended), where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, I do not consider the proposed development should be granted permission. The proposed development is not of strategic or national importance and there are not conflicting or unclear objectives in the Fingal County Development Plan. There is no evidence before me to demonstrate that permission has been granted for similar development in the surrounding area. There are no provisions for granting such development, having regard to the regional spatial and economic strategy for the area, guidelines under Section 28 or policy directives under section 29 of the Act, the statutory obligations of the local authority, or any relevant policy of the Government.

7.2.13. The rural area in which the site is located is classified as an area under ‘Strong Urban Influence’ due to its location in close proximity to Dublin City and major transport corridors, as detailed under Section 5.1 of the Development Plan. Such areas are defined in the ‘*Sustainable Rural Housing Guidelines for Planning Authorities*’ as rural areas exhibiting characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such areas and pressures on infrastructure such as the local road network. The site is located in close proximity to a number of urban villages and towns including Oldtown (c. 2 km to the north-west), Ballyboughal (c. 2.6 km to the north-east), Rolestown (c. 2.1 km to the south) and Swords (c. 7 km to the south-east). To date, the applicants have managed to successfully manage and operate the family farm at this location while living in the urban area of Swords. I acknowledge, however, that the applicants have put forward a strong case for a rural house at this location.

7.2.14. Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area. As stated above, I am satisfied that the applicants are actively engaged in the running of a farm and that the proposed dwelling would be for use as the applicant’s primary residence. I do not consider the proposed development would comprise an urban generated rural house and that the applicants have demonstrated a rural-generated housing need for a dwelling at this location. However, as detailed above, the applicants do not fully comply with the requirements of Objectives RF36 and RF38 of the Development Plan and thereby would materially contravene the ‘RU’ zoning objective of the site, whereby dwellings on such zoned lands require compliance with the requirements of relevant objectives of the Fingal Rural Settlement Strategy. On this basis, I recommend that the proposed development be refused permission.

### **7.3. Screening for Appropriate Assessment**

7.3.1. The closest Natura 2000 site to the appeal site is the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208) which is located 8 km to the west of the site. Taking into consideration the nature and scope of the proposed development, the wastewater treatment system proposed to serve the dwelling, the details provided on

the site characterisation form and the existing residential and agricultural development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 8.0 Recommendation

8.1. I recommend that planning permission should be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site within an "Area Under Strong Urban Influence" as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating rural housing need in accordance with the current Fingal County Development Plan 2017-2023, it is considered that the applicants do not fully comply with the requirements of Objectives RF36 and RF38 of the Development Plan. The proposed development, therefore, would materially contravene the 'RU' zoning objective of the site, whereby dwellings on such zoned lands require compliance with the Objectives of the Fingal Development Plan Rural Settlement Strategy.

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Brendan Coyne  
Planning Inspector

14<sup>th</sup> October 2020