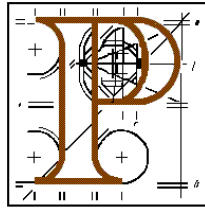


An Bord Pleanála



Inspector's Report

PL06D.245863

DEVELOPMENT: House, on-site wastewater treatment system access, site works at Ballyedmonduff Road, Sandyford, Dublin 18.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire-Rathdown County Council
Planning Authority Reg. No.: D15A/0603
Applicant: William and Beatrice Durkan
Application Type: Permission
Planning Authority Decision: Refuse

APPEAL

Appellant: William and Beatrice Durkan
Type of Appeal: First v Refusal
Observer: None
Date of Site Inspection: 12th March 2016

INSPECTOR: **Mairead Kenny**

1.0 SITE LOCATION AND DESCRIPTION

The site comprises a plot of 0.94 hectares located to the south of a larger holding, which is in the applicant's ownership. The larger plot is the current place of residence of the applicant and the holding is laid out and in use as an equestrian facility called Carrowkeel stud. The lands between the subject site and Carrowkeel stud are leased by the applicant. Figure 3 submitted with the application indicates the location of the site relative to the overall landholding.

The site is served by the Kilcullen to Stepside Road. The site is about 1km from the well-known public house, Johnny Foxs' which draws trade from local and distant locations. This is a relatively remote upland part of the county of Dun Laoghaire Rathdown. The road network in the area is relatively narrow and I formed the impression at the time of my inspection (mid-afternoon on a weekend day) that the roads are relatively heavily trafficked.

The site slopes from the roadside boundary at the western side to the north and east. The roadside boundary is defined by a stone wall to the rear of which are brambles and a row of recently planted trees. The roadside boundary is marked also by a timber post and rail fence which separates the grassed area from the trees, bramble and stone wall. The post and rail fence does not enclose the entire site some of which is marked by post and wire fencing, gorse and other species. There are expansive views to the city and the bay from the site.

The overall area is characterised by a high level of one-off housing. The current place of residence of the applicant appears to be the house off the cul de sac road to the north of the site and which provides access to the southern end of the holding. There are large agricultural structures at this location. To the south and at the opposite side of the county road from the subject site are other houses.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached to the rear of this report.

2.0 PROPOSED DEVELOPMENT

Permission is sought for development comprising a single-storey dwellinghouse, a wastewater treatment system and private well and all associated site works. The subject dwellinghouse is almost L-shaped and is of a stated area of 239 square metres.

3.0 PLANNING HISTORY

Under PL06D.230768 William Duran was refused permission for development of a new house. The selected site in that instance was in the

immediate vicinity of the stud farm. The house was intended to be occupied by a caretaker and for accommodation for jockeys and stud hands. The Board upheld the decision of the Planning Authority to refuse permission. The reasons for refusal may be summarised as follows:

- area of high amenity and in an area of strong urban influence where it is general policy to restrict the number of new dwellings in the area – having regard to the planning history of the landholding and the existing farm complex the applicant has failed to demonstrate a need for an additional house at this location.
- failure to provide a minimum road frontage width of 60 metres contravenes standards set in current Development Plan.
- proposal is reliant on wastewater treatment system discharging off site and would not therefore be in accordance with orderly development and with the proper planning and sustainable development of the area.

The date of decision in the above is 25th March 2009.

Under planning reg. ref. D06A/0921 permission was granted to Aidan Durkan for a replacement dwelling on a house on a site known as 'Kelto', which was noted to be under construction on 11th November 2008. An occupancy condition was attached for a 15 year period. The applicant confirmed by letter of 22nd May 2006 that he was involved on a daily basis in the running of the stud including in the training and maintenance of horses and that this required early morning starts and an absolute need to live close by the stables.

4.0 PLANNING POLICY

The site is in a rural area under strong urban influence as described in the Sustainable Rural Housing Guidelines.

The relevant plan is the Dun Laoghaire Rathdown Development Plan 2010-2016. The site is zoned Land Use zone G with the objective "To protect and improve high amenity areas". Residential development is open for consideration.

Policy RES 16 refers to restriction of the spread of one-off housing into the rural countryside while accommodating local growth in identified small villages subject to the availability of necessary services. It is recognised that much of the demand for one-off housing is urban generated and this can result in an unsustainable pattern of development, placing excessive strain on the environment, services and infrastructure. One-off housing may be

acceptable where it is clearly shown that it is not urban generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape, and where demand arises from employment which is specific to the locality or local social needs.

Policy LHG2 refers to conservation and enhancement of high amenity zones and management of these areas to absorb further recreational uses and activity while protecting their special character.

Policy LHG4 refers to protection and encouragement of views and prospects of special amenity value or special interests.

Map 12 shows an objective to preserve the views on both sides of Ballyedmonduff Road. The site is outside the boundary of the Local Area Plan.

Policy E16 refers to supporting the equine industry.

5.0 PLANNING AUTHORITY DECISION

5.1 Planning and Technical Reports

The circumstances of the applicant are noted in the **Planner's report** dated 13th November 2015. The rural housing policy is considered to be very clear. Chapter 16.3.5 and policy RES16 outline the criteria and relevant policy. It is not considered there is a genuine requirement for housing in the area because the applicants already have a house. Policy RES16 also requires that the applicant's principle employment needs to be in agriculture and it is clear that the applicants are intending to take a step back from the business and not therefore considered to comply with policy RES16. The provisions of policy E16 which relate to the equine industry do not override this policy.

In relation to the visual amenity the ridge height of the proposed house is relatively low and external finishes are appropriate and elevations have good proportions. However the development is directly in the line of sight of a listed view. The development including vehicular access will affect the existing landscape. In order to achieve adequate sight lines it is likely that setting back of the boundaries and provision of splays would be required and this would further disrupt the existing landscape/vista.

The area is under pressure, is highly sensitive and to permit the development would conflict with the landscape character areas and other policies. The applicants own a house which will in future be occupied by the applicant's son who will take over management of the equine facility with his family. The site

is in a high amenity zoned area and directly in line of the view that is to be preserved. The application is identical to that previously refused and there is no change in Development Plan policies since. Refusal is recommended.

The report of the **Environmental Health Officer** dated 28th October 2015 recommends further information including an up to date site characterisation form complying with all elements of the code of practice. Further it is required to submit the location of all neighbouring houses and wastewater treatment systems, the position and distance of wells downstream of the development and whether the water supply source is from a well or a public mains as there is contradictory evidence in this regard.

The report of **Transportation and Water Services Section** dated 21st October 2015 indicates no objection subject to certain specifications.

The report of **Transportation Planning Section** dated 11th November 2015 indicates that revised drawings showing the full entrance and boundary details to provide 50 metre sightlines are required.

The report of **An Taisce** indicates that there does not appear to be any necessity for agricultural purposes for an additional house in this high amenity zone. Permission should be refused.

5.2 Planning Authority Decision

The Planning Authority decided to refuse permission as it was considered that the proposed development located in an area zoned objective G and in the rural foothills of the Dublin Mountains where there is enormous pressure for development of single-storey houses taken in conjunction with existing development on the landholding and the fact that the applicants have an existing house, would give rise to an excessive density of development and conflict with relevant policies including an objective relating to preservation of views.

6.0 GROUNDS OF APPEAL

The main points of the appeal include:

- the applicants have contributed to the area for over 40 years and operated the stud farm
- as they are nearing retirement the applicants want to hand over the equine enterprise to their son Danny, which requires him to reside in the family home

- the applicants propose to live on the 0.94 hectare site and to build a modest house of gross floor area of 239 square metres and consider that their rural housing need is established
- there is a relevant precedent case under Planning Reg. Ref. D11a/0183 within protected views and the special circumstances afforded to the applicant in that case should be applied to this appeal
- the applicants comply with section 3.2.3 of the Guidelines
- a smaller more manageable house would be more appropriate to the applicant's changing needs and ailing health
- a sterilisation agreement could be required
- under the zoning objective rural generated housing needs may be acceptable
- RES16 section 5.6.1 also allows for rural generated housing in certain circumstances
- the site is outside the Glencullen LAP area and the Design Guide is not relevant
- while housing 'need' is not defined in the plan the applicant adheres to criteria set out in other policy
- the applicant will still work in the business on a part-time basis but his son Danny who currently resides in Dalkey will take over and it is necessary that he reside on the stud farm to provide for 24 hour care and cater for the typical day on the stud farm which is from 06.30 to 21.00
- provision of the new house will allow Danny to live in the existing house
- it is unjust and unreasonable to consider that the applicant do not qualify as having genuine rural need
- the need resides with the applicants and not their son Danny
- Policy E16 supports the equine industry
- the Durkan stud farm is the only one left in the area and it plays an important role in the survival of the equine industry and diversification of agriculture in the area and it involves breeding, rearing and training of racehorses
- William Durkan will continue to work in an advisory capacity
- the siting of the house into the topography and the modest height proposed will ensure views of the Kiltarnan Plain are maintained
- the proposal complies with the 'G' zoning objective
- the density is low and the house is modest and responds to the sloping topography
- services will be provided and sightlines are adequate
- the development would not set an undesirable precedent
- the previous reason for refusal did not cite the potential conflict on landscape character or views

- the strategy for LCA5 refers to linear development merging the two villages of Kiltarnan and Stepside but the site is distant from these villages – also the site is not within the area referred to in the Kiltarnan / Glenamuck Local Area Plan and LCA5 can be discounted as a reason for refusal
- the site is outside LCA7
- the sylvan setting of the area will be maintained by extensive native tree planting and screening and retention of the stone wall and by reason of the design of the house
- the applicant's need is genuine yet multi-faceted and is not typical
- a section 47 agreement can be entered into for a period of 7 years
- the applicant has lived in the area for 40 years and will continue to work in agricultural and also wants to maintain social and family connections.

7.0 RESPONSE TO APPEAL

7.1 Planning Authority Response

The main points of the substantive response include

- the basic principle of the application is not considered to be particularly unique and involves construction of the new dwelling for applicants who already own and live in a dwelling in the area.
- it is considered that there is conflicting information in relation to the applicant's involvement in the equestrian activity.
- the application must be considered on its own merits.
- the development plan incorporates the provisions of the Sustainable Rural Housing Guidelines.
- provision of adequate sightlines will require substantial removal of stone walls, hedgerows and trees. A site layout plan identifying sightlines was received but the transportation section report indicated that it was not clear how these could be achieved as the existing stone wall is approximately 900 millimetres from the edge of the road and the boundary wall is shown to be retained.

- a grant of permission would set an extremely undesirable precedent whereby applicants who own and live in their dwelling could construct a new dwelling.
- the circumstances are not particularly unique as it is parents proposing to downsize and transfer the family home to his son or daughter.
- the boundaries of the landscape character areas are indicative only.
- permission should be refused.

8.0 ASSESSMENT

I consider that the main issues relate to the policy relating to the principle of the development and to the impact on the landscape and the protected view.

Principle of Development

Regarding the stated need for an additional house in this area I consider that the issue mainly comes down to the equestrian activity. Policy support for the industry must be balanced with requirements relating to housing need and landscape protection.

The 13 hectare holding attached to the family home is stated mainly to be dedicated to training of horses and to accommodate stabling, paddocks, barns, an indoor arena, schooling grounds, loose lanes and ancillary facilities associated with horse training. Additional lands are rented. The family has trained national hunt and flat winners and are also established breeders. The business of horse training requires continuous attention and three staff are employed at the yard to assist in the daily workload. The applicant assists and oversees the daily works and will continue in an advisory capacity while handing over the business to Danny his son, who will reside in the family house. For these reasons and to maintain social ties with the area they have resided in for 40 years the Durkans seek permission for a more manageable house.

The proposed development would result in a third house in family ownership on or in the vicinity of the stud farm. I refer the Board to the planning history which includes a grant of permission for a son of the current applicant. The development would further reduce the size of this small holding. I note the submission from the Turf Club which supports the application on the basis that it would provide security and allow the applicant to remain in total control of the horses under his care at all times.

I have examined all submissions on the current file as well as the planning history. The stated need for a house has to be assessed in the context of the holding and its operation. I consider that there is a dearth of information lacking in relation to the equestrian activity on the holding and in relation to the role, experience and qualifications of all relevant family members including any other employments, the level of activity of the stud farm and the role of the employed staff. I also consider that more information is required in relation to what role the site plays in the equestrian activity - I noted that the site is steeply sloping and that timber post and rail fences in situ were relatively weak structures, not continuous and in poor condition. It is reasonable to question whether the residential use of part of a small holding is compatible with the viability of the future equestrian activity. In overall terms I am not satisfied that the applicant has demonstrated that it is necessary to develop a separate dwellinghouse in the context of semi-retirement and handing over the business to a son, whose engagement in the enterprise is poorly described.

In relation to the health and social needs of the applicant these are reasonably served by the existing house in my opinion, as the large house would be capable of adaptation. This area is under considerable pressure for residential development and the landscape character is continually being encroached upon by suburban style development. I submit that in order to favourably consider a further house on this small holding the Board should be satisfied that there is a genuine housing need, which cannot be served by the existing house. I am not satisfied that such need is demonstrated notwithstanding the circumstances outlined. I note that the 'housing need' is stated to reside with Mr William Durkan. However, the arguments presented relate also to Mr Danny Durkan and his future engagement in the stud. Therefore, I consider that all circumstances relating to the applicant's son and the training and breeding enterprise also need to be thoroughly described and assessed. The Board could request additional information on these matters. Based on the information presented I agree with the conclusion of the Planning Authority that the development proposed contravenes the policy in the development plan.

Landscape and Views

The development is a low lying dwellinghouse with finished floor level of 304.95m and ridge height of 310.05m compared with a level of about 308m at the adjacent public road. The building proposed is well designed and external finishes can be addressed by condition. The roof would be most visible and a suitable natural slate finish would be appropriate. The site is already heavily planted at the public road and the landscaping plan presented indicates further proposals for tree and shrub planting. Notwithstanding all of the

positive attributes of the proposed development, I agree with the conclusion of the Planning Authority that the development would give rise to an excessive density of development and conflict with policies relating to preservation of views. The impact of this development would further erode the landscape qualities which are continually being diminished in an incremental manner. The development would require removal and alteration to the stone walls which are a characteristic element in the area. I agree with the comments of the Council's planner in relation to the achievement of sightlines and in this regard I note that the centreline of the road is marked by a solid line and that the horizontal and vertical alignment of the road is poor. The development would introduce a heavily landscaped residential element and which is not characteristic of the landscape, which it is an objective of the Planning Authority to preserve. The development would further erode the view from Ballyedmonduff Road, which is under significant pressure for residential development and already heavily developed with one-off housing.

Other Issues In relation to the proposed water and waste water infrastructure to serve the development I note the report of Roger Mullarkey and Associates. Notwithstanding the public water supply available in the vicinity of the site the proposal is to supply the site from a private well. The well would be positioned close to the site entrance and about 75m from and up gradient of the wastewater treatment system. A site suitability assessment indicates that the site is suitable for the proposed individual wastewater treatment system and can be served by a private water supply. In this regard the general location of surrounding infrastructure is provided on the site layout maps. I consider that the development is generally acceptable in terms of proposals for wastewater treatment and related matters.

In relation to road safety issues I consider that it is likely that the site boundary can be suitably amended to provide adequate sightlines. The wider issue in this area in my opinion relates to the level of traffic on a narrow road network. The restriction of further development to essential activities is necessary in this context.

Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely impacts arising from the proposed development I consider that no appropriate assessment issues arise.

9.0 RECOMMENDATION

I recommend refusal for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. The proposed development is located in an area designated as a rural area under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2005 and zoned G 'to protect and improve high amenity areas' in the Dún Laoghaire-Rathdown County Council County Development Plan 2010 to 2016. National and local policy seeks to restrict housing in unserviced rural areas to applicants who have demonstrated a genuine need to live in such areas. The Board is not satisfied that the applicant has demonstrated a rural housing need in respect of the subject site. The development proposed on the subject site would consolidate a pattern of urban sprawl and would lead to demands for the uneconomic provision of public services in an unserviced rural area and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is an objective of the planning authority as set out in the Dun Laoghaire Rathdown County Development Plan 2010 to 2016 to protect and encourage the enjoyment of views and prospects of special amenity value or special interest. The views from Ballyedmonduff Road are designated for protection in the plan. The proposed development would result in the introduction of further residential development into the protected views and would further erode the quality of those views. The development would therefore materially contravene an objective set out in the County Development Plan and be contrary to the proper planning and sustainable development of the area.

Mairead Kenny
Senior Planning Inspector
15th March 2016