



An
Bord
Pleanála

Inspector's Report

PL06S.247085

Development	Bungalow, Treatment Plant and Ancillary Works at McDonagh's Lane, Brittas, Co. Dublin
Planning Authority	South Dublin Co. Co.
Planning Authority Reg. Ref.	SD16A/0194
Applicant(s)	Annette and Alan Ritchie
Type of Application	Permission
Planning Authority Decision	Refuse
Appellant(s)	Annette and Alan Ritchie
Observer(s)	None
Date of Site Inspection	14/11/2016
Inspector	Caryn Coogan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site is located in an elevated rural area to the north west of Brittas village just off the N81, National Secondary Road from Dublin-Blessington. The site is an irregular shape and internally it has an undulating topography. Access is from the road frontage along McDonagh's Lane which is narrow winding road serving a multitude of one off houses just off the N81.
- 1.2 The site is currently part of a field used for grazing cattle, however the drainage is poor which is evident from the reeds on the site, and the larger large holding is mainly overgrown with gorse. Internally to the east of the site there are expansive views to the south out towards the coast via a river valley. There is a steep incline across the north axis of the site.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development is for a single storey, three-bedroom dwelling. The ridge height is 6.3metres, and the dwelling will be tucked into site to the east away from public view form McDonagh Lane. A sewage treatment system is proposed and access is from McDonagh Lane.

3.0 PLANNING AUTHORITY DECISION

3.1 DECISION

South Dublin County Council refused the proposed development for **FIVE** reasons:

1. Having regard to the HA-DM zoning which is to protect and enhance the outstanding natural beauty of the Dublin Mountains, and policy H23 Objective 1, it is considered the applicants do not comply with policy H23 and have failed to demonstrate a genuine need to live in this area.
2. Traffic Hazard
3. Lack of road frontage
4. The site is located within the greater Dublin green Belt
5. Interfere with the Rural Setting

3.2 TECHNICAL REPORTS

Water Services Section: No report

EHO: No objections, grant with conditions

Roads: Refuse

Planning Report: The main points assessed are as follows:

- Houses are open for consideration under the HA-DM zoning. However, the development must not conflict with other policies of the development plan.
- H23 Objective 1 Rural Housing in HA- Dublin Mountain Zone certain criteria must be met. The applicants have not met with the 4No. criteria under H23.
- Extraction may have taken place on the site previously. The proposed dwelling will interfere with views of the landscape
- EHO was happy with the waste water treatment proposals.
- Roads Department recommends a refusal.

3.3 THIRD PARTY OBSERVATIONS

An Taisce objected to the proposed development on the basis the site is located within zone H, the applicant does not fulfil H23, the house would be prominent and the proposal is contrary to government policy.

4.0 PLANNING HISTORY

4.1 There is no planning history associated with the subject site. On an adjacent site there is a history file, SD06/0122 a refusal for a detached bungalow. Other refusals for bungalows in the adjacent area include planning references, SD05A/0441, SD04A/0718 and S01/0005.

5.0 POLICY CONTEXT

5.1 Development Plan

South Dublin County Development Plan 2016-2022 (The relevant sections are included in the Appendix of this report)

Zoning :

The site is located in an area zoned HA-DM this seeks '*To protect and enhance the outstanding natural character of the Dublin Mountain Area*'

2.5.4 RURAL HOUSING IN HA – DUBLIN MOUNTAINS ZONE

It is the policy of the Council that within areas designated with Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) new or replacement dwellings will be only be considered in exceptional circumstances

H23 Objective 1:

To consider new or replacement dwellings within areas designated with Zoning Objective 'HA-Dublin Mountains' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) where all of the following criteria are met:

The applicant is a native of the area; and

The applicant can demonstrate a genuine need for housing in that particular area; and

The development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming; and

The development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.

These criteria are in accordance with the Sustainable Rural Housing Guidelines (2005), having regard to the outstanding character of the area and the need to preserve the environmental and landscape quality of this area.

Policy 26 Occupancy Condition

It is the policy of the Council that conditions attached to the grants of permission for housing in Rural (RU), Dublin Mountain (HA-DM), Liffey Valley (HA-LV) and Dodder Valley (HA-DV) areas will include the stipulation that the house must be first occupied as a place of permanent residence by the applicant and/or by members of his/her immediate family, for a minimum period of seven years or such other longer period of time as is considered appropriate.

11.3.4 Housing Need

The Rural Settlement Strategy outlined in Chapter 2 Housing sets out the requirements to meet housing need that will be considered for housing on lands that are designated with Zoning Objective 'RU', 'HA-DM', 'HA-LV' and 'HA-DV'. For the purpose of assessing local rural housing needs criteria, the division between the High Amenity Dublin Mountain 'HA-DM' Zone and the High Amenity Dodder Valley 'HA-DV' Zone occurs at Fort Bridge, Bohernabreena with the 'HA-DM' Zone occurring to the south of the bridge and the 'HA-DV' Zone occurring to the north of the bridge.

(iii) Wastewater Treatment

Domestic effluent treatment plants and percolation areas serving rural houses or extensions shall comply with the requirements of the Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards. Such details should be included with applications for new or replacement houses and extensions to existing dwellings where there would be an increase in demand on the treatment capacity of any existing wastewater treatment system.

11.5.5

High Amenity Areas and Sensitive Landscapes

Development proposals in high amenity zones and sensitive landscapes, including proposals that could potentially impact on designated views or prospects, shall require a Landscape Impact Assessment to assess the visual impact of the development (including any ancillary works) on the landscape and to outline mitigation measures to reduce the impact of the development. At the discretion of the Planning Authority, smaller scale works that would be unlikely to impact on the landscape, such as dwelling extensions, will not be subject to this requirement. Development that enhances existing degraded landscapes should be supported. Landscape design shall ensure that:

Development is carefully sited, designed and of an appropriate scale, Existing site features such as specimen trees, stands of mature trees, hedgerows, rock outcrops and water features are properly identified and retained, as appropriate and new planting or other landscaping should be appropriate to the character of the area, and Significant on-site natural features shall influence the layout of new development.

Public Rights of Way and established walking routes should be identified as part of any planning applications for new golf courses within the County.

The site is located or within or adjoining:

- Rural Hinterland Area Fig. 1.1 South Dublin County Core Strategy
- Strategic Green Belt and Rural Hinterland Dublin Metropolitan Area under the regional planning Guidelines for the Greater Dublin Area 2010-2022
- Landscape Charter Area of 'Athgoe and Saggart Hill'

The site is also:

- 420metres west of Slade of Saggart and Croksling Glen a national important site
- A stream 70metres to the west feeding into Brittas River
- Within the catchment of Bohernabreena Reservo

6.0 THE APPEALS

6.1 Summary of the appeal brought by Annette and Alan Ritchie against the decision of South County Dublin to refuse planning permission for their bungalow at McDonagh's Lane in Brittas.

6.2 Annettes grandfather lived on McDonagh Lane and worked as a farmer on the land. Most of the seven children resided in separate houses along the lane, there was a cluster of houses within the McDonagh family along the lane and that is how it got its name. There was extraction from the subject site over 14 years ago by Anette's Uncle Stephen McDonagh. The lands are now used for grazing.

6.3 It is stated the planning application was lodged on 2nd of June 2016 when the 2010-2016 county development was operative. The applicants were entitled to have their case assessed under the provisions of the 2010 development plan.

6.4 Under the zoning matrix 'H' and 'HA-DM' (previous and current plans), residential development is open for consideration.

6.5 Reason for Refusal No. 1:

Circular Letter SP 5/08 is incorporated into the policies of the development plan under Policy H23 Objective 1. The Planning Report was satisfied that Annette Ritchie is a native of the area. She is building a house, her first house, on a plot of land located opposite her elderly parents who she has to care for. There are no houses for sale in the vicinity. This is her need to live in the area. A strong case was presented that the development complied with Paragraph 1.2.52.v Policy H33 Exceptional Housing Needs in Dublin Mountain. Policy H33 was not mentioned in the report. The EHO had no objection to the proposal, there are no environmental concerns relating to the development. There has been no assessment in the Planning Report as to how the applicant does not meet with the four criteria of Policy H23.

Annette and her son Dylan were born and reared in the area. She works locally, this is a rural based application. The family tree is included with the appeal.

6.6 Reason for Refusal No. 2

The internal Roads Department did not recommend a refusal and it did not conclude the development was a traffic hazard. The Roads report

states the vertical and Horizontal alignment are severely substandard. It did not state what is severe and it did not state what the sightline dimensions should be.

Drawing No. 11 shows the sightlines available 79metres in a northern direction and 70metres in a southern direction. There is a 60kmh speed limited, however the traffic is slower due to the bends on the road. There is scope within the NRA Manual for Roads and Bridges TD 41-42 Paragraph 7.7 for relaxation of rules. The level of ground within the area of sightline does not exceed 1.05m above the level of the ground at the access and accords with the vertical alignment requirement. The applicants currently reside on the opposite side of the road, therefore there will be no additional traffic movements associated with the development. There are many recesses along McDonagh Lane will allow two vehicles to pass. The applicant is willing to cede the width of 5metres along the entire road frontage for a lay by area. It will benefit other road users. There is no evidence of the McDonagh family making demands for uneconomic provisions of services in the area over the lifetime of their occupation of McDonagh's Lane.

There are precedence where visibility splays of 2m x70m are accepted within 60kmh zones on so called substandard roads by the Roads Department. Cases SD06A/0515, SD08A/0613, SD11A/0137 and SD11A/0166.

6.7 Reason for Refusal No. 3

Policy 11.3.4(ii) states a minimum of 60metre road frontage should be provided for all new dwelling sites in rural areas and proliferation of ribbon development should be avoided. Ribbon development is considered to be 5No. dwellings along a 250metres stretch of road frontage. The planning authority's assessment failed to consider the applicant is buildings within a family cluster, the proposal is an infill development between two existing dwellings and that the dwelling will be hidden from the road therefore not resulting in a distinct form of ribbon development.

The does not have 60metre road frontage, but it has an internal width of 67metres which decreases to 39metres at the rear boundary. Unfortunately, a number of dwellings to the north have less than 60m road frontage which creates the ribbon development. Only three of the five dwellings are visible form the road. The proposed dwelling is set back 75metres form the road. Precedence of a dwelling granted permission with less than 60metres road frontage is SD03A/0297.

6.8 Reason for Refusal No. 4

The issue relating to the Greenbelt was not mentioned ta pre-planning meetings, and it is not mentioned in the body of the Manager's Order. How can it be concluded that it will add to a proliferation of one -off housing without any assessment. The proposed dwelling is positioned between two dwellings and not visible from the road. The infill development will not add to any loss of amenity.

6.9 Reason for Refusal No. 5

The planning report submitted with the planning application outlined views from both sides of McDonagh's Lane and both sides of the N81 will be protected. The Planner's Report on file does not quantify how the proposal would interfere with the character and views of the landscape. The proposed dwelling is designed to fit into the subject site and landscape in accordance with Paragraph 11.3.4 of the development plan. The proposed bungalow will have panoramic distant view of the Wicklow Mountains, but the dwelling will not be seen from the Wicklow Mountains due to the setting and separation distance, and it will not interfere with any existing views of the Wicklow Mountains. The site may appear to be exposed but having regard to the proposed boundary treatment and landscaping it will have the feeling of been enclosed. The landscaping proposals were not considered as part of the overall assessment of the case.

6.10 Paragraph 1.2.52v Policy H33: Exceptional housing Need

The planning application was submitted during the time of the 2010 County Development Plan and a case was presented supporting Annette's compliance with H33 of the development plan. The Manager's Order completely ignored the matter, and the Board is requested to consider the proposed development under Policy H33 of SDCC Development Plan 2010. Annettes' father, John McDonagh had a serious heart operation and has to attend Tallaght Hospital twice a week. He has had other health problems. Annettes mother has acute arthritis and cannot drive. Annette currently lives with her parents but this is not feasible for both families to live in such a manner or build and extension to the family home as other family members may not approve of same.

6.11 Precedence

Other cases within the 'H' zoning that were considered favourably, SD03A/0283, SD12A/0015 and SD07A/0255. SD09A/0431 and PL06S.235836, whereby the Board considered the dwelling was part of a small cluster of dwellings and would not be unduly prominent.

6.12 RESPONSES

An Taisce supports the planning authority's reason for refusal. The development should not be assessed under the 2010 development plan, but the plan in operation at the time of the decision. There is no basis to grant planning permission on exceptional health grounds in the newly adopted development plan.

The planning authority confirms it's decision.

7.0 ASSESSMENT

7.1 The proposed dwelling is located in a rural area on the foothills of the Dublin Mountains just north of Brittas along a narrow winding lane, McDonagh Lane. The proposed dwelling is a single storey three-bedroom unit. One of the main grounds of appeal and arguments throughout the appeal submission relates to the fact the planning application was submitted on the 2nd of June 2016 when the South Dublin County Council Development Plan 2010-2016 was operative. The date of the planning authority's decision was 22nd of July 2016 and the new South Dublin County Development Plan 2016-2022 was adopted and operative at that time. The appellant argues that they comply with certain policies included in the 2010 development plan these issues were not taken into consideration in the planning authority's assessment of the case or the decision. The Board is advised the planning authority was correct in its assessment relating to policies contained in the newly adopted plan when it made its decision. Case law demonstrates the planning authority and the Board must have regard to the development plan or draft development plan operative at the time of the decision, and not the time of the lodgement of the planning application. Therefore, the assessment of this case will not relate to rural housing policies contained in the 2010 county development plan as these have been superseded by the new policies which are contained in section 2.5.0 of the current development plan and are appended to this report.

7.2 The planning authority refused the proposed development for five reasons as stated earlier in the report. I wish to examine this appeal under the following headings:

- Development Plan Policies
- Impact on the Landscape
- Impact on the Roads
- Appropriate Assessment

7.3 Development Plan Policies

The subject site is located within the Dublin Mountain Zone whereby policies H 23 Rural Housing in HA are applicable as per Section 2.5.4 of the County Development Plan. The policy states new or replacement dwellings will only be considered in exceptional circumstance. H 23 Objective 1 policy states that all of the following criteria must be met by applicants in order to be considered positively for a dwelling in the Dublin Mountain Zone:

- The applicant is a native of the area;
- The applicant can demonstrate a genuine need to live in that area

- The development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming, and
- The development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.

Annette Ritchie, formerly McDonagh is a native of the area. She was born, reared and resides in the area. She also works locally in Blessington. The site is along McDonagh's Lane which has strong direct links to Annette's immediate family. Her grandfather, Michael McDonagh, moved onto the lane in 1948 and owned 85 acres. There are still a number of immediate family members residing along the lane, including Annette's father John, and there are other family members along the lane. Annette's need to live in the area is based on the fact she cares for her parents, as both parents are ill. Letters from doctors are included on the file to support her case, as her parents reside on the opposite side of McDonagh's Lane to the subject site.

I note the content of the Planning Report from the applicant's that forms part of the original submission documents. I would conclude the applicant complies with the first element of the listed criteria of H23 Objective 1, she is and continues to be a native of the area, she does not comply with the other three criteria. There is no mention of other siblings in the family and the precedence this would create if permitted. If the family is so linked and connected as stated in the report, there is no necessity for an additional dwelling along the lane. The option of building another dwelling unit, semi-detached or an extension onto the parents' home, in order for the applicant to care for her parents has not been fully considered. The proposed development does not relate directly to the area's amenity potential or to its use for agriculture, mountain or hill farming, and as discussed below the proposed development would prejudice the environmental capacity of the area, and that it would not be in keeping with the character of the mountain area.

7.4 Impact on the Landscapes

The subject site is an elongated dog leg shaped site, which has a narrow road frontage onto McDonagh Lane, however the site is deep as it moves away from the road in a westerly direction. I noted, and it is confirmed on appeal, that extraction occurred on the site over fourteen years ago. There are rushes and ponding to the front of the site, and a steep embankment along the northern axis of the site. The site and surrounding area is overgrown by gorse bushes, it is not fertile grazing lands. However, it is a very scenic landscape, and the river valley immediately to the south and west of the site, creates a rugged and unspoiled views from the position of the proposed dwelling. There are panoramic views south and west from the position of the proposed dwelling. The house would be positioned to overlook views of an unspoilt river valley and towards the coastline. In my own opinion, the views is quite spectacular which was enhanced by the Autumnal colours during my visit. Whilst I agree with the applicant's argument, that the dwelling will be screened from public view from the

adjoining laneway and the N81, this does not imply the proposal will not impact on the landscape. In fact, one only has to examine the context of the subject site along McDonagh Lane from an aerial viewpoint to realise the landscape has not got the carrying capacity to accommodate further dwellings at this location. The applicants fail to acknowledge that any views the dwelling location can see, the subject site will also be visible from, and this includes an expansive unspoiled area to the south and west. The proposed landscaping is noted however it is to the east of the proposed dwelling, and the greatest visual impact created by the dwelling will be from the south and west. I believe the remaining pockets of undeveloped or agriculture land within the general vicinity of McDonagh Lane should be retained in agricultural use, and not forfeited to development pressure. By retaining parcels of agricultural land amidst the overdeveloped downward slopes of the Dublin Mountains, will help to retain the rural character and amenity value of these locations and sensitive and high amenity value landscapes.

7.5 In the appeal the applicant refers to the development as infill development as opposed to ribbon development. I would regard the term 'infill' to be more urban terminology based than rural based. The proposed development is another ad hoc form of one off housing within a sensitive rural area that is protected under the current development plan policies for its landscape and amenity values. Unfortunately, such areas in close proximity to towns and villages are under continuous development pressure particularly in the peripheral areas of the Dublin Metropolitan region. The additional description in the third party appeal relating to a 'cluster' fails to understand the meaning of a rural cluster or clachan type development. Each dwelling within a cluster is linked in some way by a communal road or facilities/services. A cluster is not a plethora of one off houses with individual entrances along the road frontage. The proposed development represents the reinforcement of further suburban like ribbon development along McDonagh Lane.

7.6 Impact on the Roads

The Roads Department of the planning authority, referred to McDonagh's Lane as a substandard rural road. It stated in the report the vertical and horizontal alignments are severely substandard and the laneway is not wide enough for two cars to pass each other. The applicant has proposed on appeal, to widen and surface the lane along the full length of the roadside boundary, to enable two cars to pass or create a passing point. The laneway is very narrow and includes a number of sharp bends as it rises northwards away from the N81. In my opinion, the lane has exceeded its carrying capacity for additional housing units, traffic generation and turning movements associated with each dwelling. The applicants have stated on appeal, they already reside on the lane at the family home on the opposite side of the lane to the subject site. Therefore, there will be no additional traffic movements. This statement is untrue, there will be additional movements associated with servicing, deliveries, postage, and refuse collection, etc. In my opinion, the laneway is unsuitable in terms of its width, vertical and horizontal alignment to cater for an additional dwelling, and I

consider this to be the most significant physical and technical constraint facing the proposed development.

Section 11.3.4 (ii) Rural Housing Design states ' a *minimum road frontage of 60metres should be provided for all new dwelling sites in rural areas.*' The road frontage associated with the proposed dwelling is below the minimum requirements, therefor the proposal contravenes the development plan in this regard.

7.7 Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.8 Other Issues

I note the soil test reveal a T-value of 12 for the subject site, and a sewage treatment system is recommended. The Environmental Health Officer had no objection to the proposed development. I noted on my site inspection very poor percolative properties associated with the site, there was evidence of ponding and reeds within the site. In addition, the site has been excavated in the recent past. There is a private well proposed and there are a large number of sewage treatment systems positioned on a higher gradient and in close proximity to the proposed well on soils with questionable percolative abilities. Although I am not recommending a refusal on public health grounds, as this is a new issue, I do wish to express my concerns on this issue.

8.0 RECOMMENDATION

Overall, the development is unacceptable in principle on the subject site, and the planning authority's decision to refuse planning permission for the proposed development should be upheld by the Board.

REASONS AND CONSIDERATIONS

1. The site is located in an area with the zoning objective HA "To protect and enhance the outstanding natural character of the Dublin Mountain area", where it is the policy of the planning authority to restrict residential development, and also in an area identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. It is considered that the applicant does not come within the scope of the exceptional circumstances outlined under Policy H23 Objective 1 set out in the development plan for a house at this rural location. The

proposed development would, therefore, materially contravene the zoning objective for the area and be contrary to the proper planning and sustainable development of the area.

2. Having regard to the extent of existing development in close proximity to the subject site, and the substandard width, and vertical and horizontal alignment of McDonagh's Lane, it is considered the proposed development will lead to additional traffic turning movements generated by the proposed development onto a narrow substandard road with restricted road frontage in terms of the current development plan requirements, and would endanger public safety by reason of a traffic hazard.

3. Having regard to the location of the proposed development within a visually vulnerable landscape which is under strong development pressure, it is considered taken in conjunction with the existing development in the general vicinity, the proposed development would be a further addition of suburban-like sporadic development, would be visually obtrusive when viewed from the south and west, and would adversely affect the character and amenity of the landscape, and would detract to an undue degree from the rural character and scenic amenities of the area and the lower slopes of the Dublin Mountains. It is considered therefore that the proposed development would be contrary to the proper planning and sustainable development of the area.

Caryn Coogan

Planning Inspector

18/11/2016