



An
Bord
Pleanála

PL06S.247577

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| Development | The construction of a single storey 4 bedroom detached dormer dwelling, including new treatment plant and percolation area, within the curtilage of protected structure. |
| Location | Redgap, Rathcoole, Co. Dublin |
| Planning Authority | South Dublin County Dublin. |
| Planning Authority Reg. Ref. | SD16A/0312. |
| Applicant | Laura Kehoe. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse Permission. |
| Type of Appeal | 1 st vs Refusal |
| Appellant(s) | Laura Kehoe. |
| Observers | None |
| Date of Site Inspection | 18 th January 2017. |
| Inspector | Susan McHugh |

1.0 Site Location and Description

- 1.1. The appeal site, with a stated area of 0.78 ha, is located southwest of Rathcoole village (c.2.5 km) in the townland of Crockshane, a rural area characterised by notable rural housing and ribbon development.
- 1.2. The site is located on the western side of the Rathcoole Hill Road, to the rear of and significantly downhill of three existing houses. The site itself falls in a westerly direction. The site has a limited road frontage in the form of the existing entrance to an existing house onto the public road which is generally defined by trees and hedgerow.
- 1.3. The site is a greenfield site, regularly shaped and is abutted to the south east by a detached dwelling, to the south by agricultural land with two detached houses located further to the south. The site is adjoined by agricultural land to the west, north and northwest. The site has views to Killeel Road to the northwest.
- 1.4. The site is accessed from Rathcoole Road via an existing agricultural entrance and laneway immediately adjacent to and to the south west of the residential entrance. The applicant has indicated an existing right of way in yellow serving the subject site.
- 1.5. The Rathcoole Hill Road is a narrow rural road and subject to a 60kph speed limit in the vicinity of the subject site. There are multiple entrances to residential properties along this route.

2.0 Proposed Development

- 2.1. The proposed development comprises a single storey four bedroomed detached dormer dwelling with a ridge height of 6.9m. The development has a stated GFA of 318sqm.
- 2.2. The dwelling reads as a dormer to the front (south-eastern) elevation and as a part single storey and part two storey structure to the rear (north-western) elevation.

- 2.3. The ground floor comprises of living areas, two bedrooms, a study and an office, with the first floor comprising of two large en-suite bedrooms.
- 2.4. The dwelling has a typical design with tear drop dormers to the rear.
- 2.5. The proposed vehicular entrance to the site is via this existing vehicular entrance and driveway, but this is currently blocked with a timber gate from the north-western boundary of this site. There appears to be discrepancies between the site plans which indicate that the subject site is to be accessed in part via the agricultural laneway, outlined within blue and alternatively in red.
- 2.6. The site is to be served by a septic tank and percolation area. Percolation tests carried out in August 2016 found a T value of 60.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for seven reasons, which may be summarised as follows:

1. Site in rural area under significant housing development pressure and applicant has not demonstrated a genuine need to reside in proximity to their employment with exceptional circumstances.
2. The existing road network is substandard, has poor horizontal/vertical alignment, and would endanger public safety by reason of a traffic hazard.
3. Generate additional traffic/turning movements at an existing entrance where sightlines have not been demonstrated as achievable and therefore would be a traffic hazard.
4. Inadequate road frontage as required in rural areas under the South Dublin County Council Development Plan.
5. The proposed development involving extensive site development works would detract from the rural character of the area.
6. Backland location of the site would exacerbate an undesirable pattern of high density suburban development in a rural area.

7. Proliferation of further one off housing in the designated Dublin Metropolitan Area and as such could prejudice the sustainable achievement of the Regional Settlement Strategy for the Greater Dublin Area 2010-2022.

3.2. **Planning Authority Report**

3.2.1. **Planning Report**

Basis for Planning Authority decision includes:

- Considers that the proposed dwelling would materially contravene the provisions of the South Dublin County Council Development Plan 2016-2022 in relation to housing in rural areas by virtue of its siting in a backland location, the existing density in the area, the level of cut and fill proposed and the level of road frontage.
- Notes that the proposal would represent a traffic hazard given that the sight distances are not achievable and the substandard conditions of the existing road network.
- Considers that the applicant has not adequately demonstrated a need for a dwelling in this area, as required in under the policies of the current South Dublin County Council Development Plan.
- Sets out a detailed consideration of the design and visual impact of the proposal and concludes that it has not been designed to reduce the impact on the landscape and notes the similarity in design to a similar permitted development on the adjacent site to the south under SD15A/0249.

3.2.2. **Other Technical Reports**

The Roads Report – noted the proposal to use an existing entrance which was permitted under SD15A/0239 which will connect to the right of way illustrated. Works are detailed to improve sight distances at the entrance, but that these works have not been included within the application site and are therefore not enforceable.

The Roads report states that the required sightlines of 2.4m x 90m are not achievable.

The report considered the proposal constituted ribbon development on a substandard road network, which will lead to a demand for the uneconomic provision of services and would set an undesirable precedent. The report also noted substandard road network which is inadequate in width and which has no footpaths, public lighting, drainage and has poor horizontal/vertical alignment.

The Roads report recommends a refusal.

Water Services – Further information was requested in relation to surface water.

The Environmental Health Officer - had no objections subject to conditions.

3.3. **Prescribed Bodies**

Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, recommended no objection subject to conditions in relation to pre-development testing as outlined in the Archaeological Appraisal of St. Catherine's Well submitted as part of the application.

3.4. **Third Party Observations**

There were two letters of objection. One from Des Perry who rents agricultural land at the end of the lane way and is concerned with the use of the right of way proposed as a permanent private access to the proposed house. The second submission was from Brendan and Seamus Reilly both beef farmers and owners of agricultural land also accessed via the existing agricultural lane.

4.0 **Planning History**

4.1. Adjacent site to the south east (partly including entrance)

P.A. Reg. Ref. SD15A/0239 Permission granted by South Dublin County Council 12th November 2015 for

Retention permission for as constructed revised location of a single storey detached dwelling, treatment plant and percolation area with large floor area at ground floor and attic.

Permission is also sought for 3 dormer windows to the front and minor elevation changes as well as works to the vehicle entrance for **Vincent Kehoe**.

Conditions 3 and 4 of this permission related to occupancy conditions and Section 47 Agreements to be entered into within 3 months of the date of the decision.

4.2. Adjacent site to the East

P.A. Reg. Ref SD14A/0130, PL065 243797 May 2015 - The Board granted permission for retention of relocated house and biocycle unit, revised location of as built entrance (including wingwalls, gates/works), applicant was **Frank Kehoe**. There was an associated case (065.RP2120) which was decided by the Board 23rd Sept 2016 regarding a point of detail in relation to financial contribution.

It is noted in the SD14A/0130 application that the appeal site was included with the landholding of the applicant Frank Kehoe.

4.3. Adjacent Site to the south west

P.A. Reg. Ref. SD15A/0249, PL 065 245705 April 2016 - The Board refused permission for revised house design and entrance to provide 2 storey house with basement, garage and relocation of entrance, applicant was **Louise Fitzgerald**.

The original permission was granted under SD07A/0291 granted on 25th July 2007 and extended under reg ref SD07A/0291/EP until 6th day of September 2017.

The reasons for refusal by The Board was stated as follows;

'Policy H42 of the South Dublin County Council Development Plan 2010-2016 seeks that dwellings shall be subservient to the rural landscape to protect rural amenity. This policy is considered reasonable. It is considered, by reason of its design, excessive scale and use of stone clad podium level, and notwithstanding landscaping measures proposed in response to the Boards' section 137 request, the

proposed development would be an inappropriate intervention on this sloping rural site, would be contrary to Policy H42 and would, therefore be contrary to the proper planning and sustainable development of the area.'

5.0 Policy Context

5.1. Development Plan

South Dublin County Development Plan 2016-2022

Zoning:

The site is located in an area zoned Objective RU, *'To protect and improve rural amenity and to provide for the development of agriculture'*.

5.1.1. The Development Plan's rural housing policy seeks to restrict the spread of dwellings in the rural zones and to focus such housing into existing settlements. In this regard, the following policy applies:

- **Policy H22:** Rural Housing in RU Zone

5.1.2. Rural Housing in RU Zone

It is the policy of the Council that within areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances.

H22 Objective 1:

'To consider new or replacement dwellings within areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) where:

The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community OR

The applicant has close family ties with the rural community.'

- 5.1.3. **Policy H26** sets out the policy of the Council in relation to occupancy conditions.
- 5.1.4. In addition, **Policy H27** sets out the general design considerations that will be applied to housing proposals that accord with the Development Plan's rural housing policies. In particular, Policy H27 requires the retention and reinstatement of traditional roadside boundaries.
- 5.1.5. Section 11.3.4 Rural Housing Design – minimum road frontage of 60 metres.
- 5.1.6. In respect of domestic effluent disposal, where a treatment plant is proposed, solution shall comply with the Code of Practice 'Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. <10) (Environmental Protection Agency, 2009 or other superseding standards.
- 5.1.7. **Recorded Monument** St. Catherine's Well DU021-040 forms part of the Record of Monuments and Places 2016.
- 5.1.8. The site is located within the Rural Metropolitan Area Fig. 1.1 South Dublin Core Strategy Map.

5.2. **Natural Heritage Designations**

There are no European sites or Natural Heritage Areas in the vicinity of the site, however the following are located within approx.. 15km.

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| 002122 | Wicklow Mountain | SAC & SPA |
| 001209 | Glenasmole Valley | SAC |
| 000731 | Poulaphouca Reservoir | SPA & PNHA |
| 000397 | Red Bog | SAC & PNHA |

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The First Party appeal may be summarised as follows:

6.2. Reason for Refusal No. 1:

Laura Kehoe has resided for over 18 years at Crockshane, Redgap and evidence in support of her residency was submitted to the Council. The applicant has included an ordnance map referenced Dwg No 1605 PD01 showing 'close family ties' to the rural area - father Joe Kehoe and her two brothers Vincent and Frank.

Policy H21 states interalia '*persons who are an intrinsic part of the rural community*' should be favourably considered in relation to rural housing. Section 2.5.3 H22 Objective 1 states interalia to consider new dwellings where '*the applicant has close family ties with the rural community*'. It is submitted that the planning criteria '*close family ties*' is a stand-alone pre-requisite for favourable consideration of a planning application.

It is also submitted that Laura Kehoe complies with The Sustainable Rural Housing Guidelines for Planning Authorities 2005 which refers to 'persons who are an intrinsic part of the rural community' and gives examples and states '*as well as people who have lived most of their lives in rural areas and are building their first home*'. It is submitted that Laura Kehoe complies fully with these criteria. The application based on the foregoing satisfactory evidence is submitted and it is unreasonable to state that the proposed development would materially contravene the Development Plan.

6.3. Reason for Refusal No. 2:

It is submitted that the speed limit on this road is 60 kilometres and 'pull in' areas allow the traffic to proceed virtually in a normal manner. The nature of the road necessitates careful driving which has the same effect as speed ramps. A reduction to a 50 kilometre speed limit could be applied. The gradient of Saggart Hill allows surface water to disperse without causing flooding at any location. The surface of the road is quite good. Speeding can cause accidents on any road and it is submitted that the term 'would endanger public safety by reason of a traffic hazard' should only be referred to in the context of speeding.

6.4. Reason for Refusal No. 3:

It is submitted that the existing entrance and visibility splays have previously been the subject of planning applications and approvals under SD02A/0180 and SD15A/0239. The planning application documentation under SD15A/0239 included a report dated 7/8/2015 on improved sightlines at Crockshane, Redgap prepared by Clarke & Company and signed by Ronan Clarke Consulting, Engineer.

The improvement works to achieve sightline distance of 90m in both directions have been carried out.

Also in the planning documentation submitted to the Council in letter dated 1/9/2016 in the current file under appeal (PLSD16A/0312) the Consulting Engineers same report dated 7/8/2015 was included. The basis for Conditions No 3 is not clear. The Consulting Engineers report was not questioned at the time and there has been no change whatsoever in the meantime. As the Council may have overlooked this report a copy is enclosed.

6.5. Reason for Refusal No. 4

It is submitted that the existing approved entrance (SD02A/0180 and SD15A/0239) has a road frontage of 40 metres and the works detailed to improve the sight distances at the entrance had previously been carried out. The applicant attached a drawing number 20 showing blue line which was submitted to Council with these planning application references and confirms the 40 metre road frontage.

It is further submitted that in the case of planning approval for a cluster of developed sites in the environs of towns and village, there is only one shared entrance and that there is no multiplier effect of 60 metres for each developed site. While the full 60 metres has not been achieved previously, it is submitted that the existing entrance is a planning approved entrance.

The site is c 160metres from Saggart Hill Road and does not therefore add to the 'visual urbanisation effect' along the road frontage and the rural quality of the area is maintained. It is submitted that while the road frontage is not the required road frontage, it is a planning approved entrance and was not previously regarded as a material contravention of the Development Plan. It is also submitted that the

planning basis for the 60 metre road frontage along rural roads was to avoid urbanisation effect which does not apply in this case.

6.6. Reason for Refusal No. 5

The applicant encloses a copy of guidance notes for '*Building Sensitively in the Landscapes of County Wexford*', and suggests should the Board decide to grant permission a condition could be attached reducing the area of the patio and that the excavated material be graded carefully and gently. Drawing number 02A showing reduced patio area and site section drawing number 02-1A is attached. It is submitted that this together with the Landscape proposals would minimise the visual impact on the character and visual setting of the surrounding landscape.

6.7. Reason for Refusal No. 6

The County Development Plan 2016-2022 refers in Section 11.3.2 to backland sites. It may be that the reference is to urban backland sites. The Sustainable Rural Housing Guidelines for Planning Authorities (April 2005) refers to Ribbon Development which the applicant contends more accurately describes the nature of the development.

The applicant submitted a drawing Dwg no.1605 PD 01 showing 4 houses within 286 metres of road frontage, two of which cannot be seen from Saggart Hill Road and contends that the proposed house will not be seen from Saggart Hill Road.

6.8. Reason for Refusal No. 7

It is submitted that the settlement strategy for South County Dublin contained in the current Development Plan 2016-2022 is obliged to have regard to the Regional Planning Guidelines. The County Development Plan in Chapter 2 – Housing refers to rural housing and does not per se inhibit rural housing but states guidelines, criteria and objectives for such housing.

6.9. Planning Authority Response

- The Planning Authority confirms its decision and the issues raised in the appeal have been covered in the planner's report.

6.10. Observations

- No further observations received.

7.0 Assessment

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

- Development Plan Policies
- Impact on the Landscape
- Access and Road Safety
- Impact on Ground and Surface Water
- Appropriate Assessment
- Protected Structure

7.2. Development Plan Policies

The subject site is located in a rural area, which is subject to significant one-off housing development. Accordingly, I would consider that there should be a presumption against development at the site save for in instances where it can be demonstrated that the applicant accords with the Planning Authority's rural housing policy.

Housing Policy 22 Rural Housing in RU Zone is applicable as per Section 2.5.3 of the County Development Plan. The policy states new or replacement dwellings will only be permitted in exceptional circumstances. H 22 Objective 1 Policy states the following criteria must be met by applicants in order to be considered positively for a dwelling in the Rural Housing Zone:

- The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) or
- The applicant has close family ties with the rural community.

The supporting documentation regarding the rural housing qualifying criteria by the applicant includes correspondence from the applicants' doctor, the applicants father Joe Kehoe, confirmation certificate and correspondence from the applicants primary and secondary schools.

The applicant's agent states that she is acquiring the site from her father. A letter of consent has been provided by a Joe Kehoe and a letter stating that in 1987 he purchased the site at Redgap and built a house in 1998. It was noted also in the Planners report that no land registry details have been submitted to verify the family landholding. While an OS map Dwg. No. 1605PD01 has been submitted on appeal indicating the location of her father and brother's houses, the extent of landholding has not been clearly delineated. It is also noted that the most recent applications on the brother's sites did not include the appeal site within their family landholding. It is also noted that the applicant has submitted no details in relation to her employment.

The Rural Housing Guidelines indicate that rural areas under strong urban influence will exhibit (inter alia) characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressure on infrastructure such as the local network.

Within this context and given the proximity of the site to the suburban edge of Rathcoole Village, where there is a high proliferation of rural dwellings near the site, it is considered that the appeal site constitutes a rural area under strong urban influence.

I concur with the planning authority that the applicant has not demonstrated a genuine need for a dwelling at this location and the proposed development would further exacerbate the high density of one -off rural dwellings.

7.3. Impact on the Landscape

The proposed dwelling with a floor area of 318sqm and with a ridge height of 6.9m is a sizeable structure and is imposing in terms of its scale on the higher part of the site. It is not considered that the proposed development has been designed to minimise the impact on the sites natural contours and relies on an intrusive engineered solution with cut and filled platform which results in an inappropriate intervention on this sloping rural site, and would be contrary to Housing Policy H27.

The First Party submits that due to the setback of the house from the public road that it is not visible and that a condition could be attached by the Board reducing the area of the patio. I noted on inspection of the site that it is well screened and located below the level of the existing houses to the south east. I note also the landscaping plan which would further mitigate the visual impact of the proposed development. However, I believe the remaining pockets of undeveloped agricultural land within the general vicinity currently in agricultural use should be retained in agricultural use, and not forfeited to development pressure.

In the appeal the applicant refers to the development as ribbon development as opposed to backland development. However, I consider the development to constitute ad hoc backland development which has the potential to set a poor precedent for further development off this agricultural lane in this rural area and that it is therefore, unacceptable.

7.4. Access and Road Safety

It is proposed to provide a vehicular entrance from the Saggart Hill Road to the appeal site through the existing vehicular access and driveway serving the applicants brothers (Vincent Kehoe) house granted planning permission under SD15A/0239 and SD02A/0180.

It is then proposed to connect to the existing agricultural and unsurfaced laneway and right of way adjoining the site. The planning authority notes that works are detailed to improve the sight distances at the entrance, but that these works have not been included within the red line of the application and are therefore not enforceable. The Planning Authority Roads section objected stating that the required sightlines of 2.4m x 90 m are not achievable.

Section 11.3.4 (ii) Rural Housing Design states 'a minimum road frontage of 60 metres should be provided for all new dwellings in rural areas'. The road frontage associated with the proposed development is restricted to the existing entrance to serving the applicants brothers house Vincent Kehoe.

The Roads Department of the Planning Authority referred to the development as undesirable ribbon development on a substandard road. In my opinion the proposed development constitutes an intensification of use of an existing vehicular entrance and driveway and gives rise to potential conflict with the shared agricultural entrance and access. As such the proposed development, would lead to additional traffic turning movements associated with servicing, deliveries, postage and refuse collection, etc., which would endanger public safety by reason of a traffic hazard.

7.5. Impact on Ground and Surface Water

7.6. The local area is un serviced in terms of wastewater treatment, thus necessitating the use of individual effluent treatment system on the subject site. I note a soil test carried out by Percolation Test. ie revealed a T-value of 60 for the subject site, and a sewage treatment system is recommended. The applicant proposes to connect to a private bore well on site. The septic tank and percolation area are located downhill from the proposed well. The Environmental Health Officer had no objection to the proposed development. I consider the proposals acceptable.

7.7. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, satisfactory proposals for onsite waste water treatment system, and to the distance / lack of pathway between the proposed development and the European Sites and NHA's I am satisfied that 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. Protected Structure

It is noted that the public notices refer to St. Catherine's Well as a Protected Structure, however it is not listed in Schedule 2 of the South Dublin County Development Plan, and is not a protected structure. I would note that any future planning application should omit any reference to protected structure.

Recorded Monument St. Catherine's Well DU021-040 forms part of the Record of Monuments and Places 2016 and is listed in Schedule 1 : Record of Monuments and Places in the South Dublin County Development Plan. An Archaeological Appraisal was submitted by Edmond O'Donovan and Associates Archaeological Consultancy and makes a number of recommendations in relation to future works. The Department of Arts Heritage Regional Rural and Gaeltacht Affairs also submitted a report and recommend pre development testing requirements including engaging the services of a suitably qualified archaeologist. I am satisfied that the requirements of the Department could be dealt with by way of condition.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. The site is located in an area with the zoning objective RU 'To protect and improve rural; amenity and to provide for the development of agriculture', where it is the policy of the planning authority to restrict residential development, and is 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 in Policy H22 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 intensification of use of an existing vehicular entrance and driveway, and potential conflict with the use of the shared agricultural vehicular entrance and access, it is considered the proposed development would lead to additional traffic turning movements generated by the proposed development onto a narrow substandard Road and would endanger public safety by reason of a traffic hazard.
3. The proposed backland development, involving extensive site development works to alter the natural contours of the site, would detract from the rural character of the area and would conflict with the requirements of Housing Policy 27 and Section 11.3.4 of the South Dublin County Development Plan 2016 -2022 in relation to the design and siting of rural dwellings. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Senior Planning Inspector

6th February 2017