



An
Bord
Pleanála

Inspector's Report ABP-300498-17

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| Development | Dwellinghouse, waste water treatment system, percolation area and associated site works. |
| Location | Newpark Dwellinghouse, The Ward, Co. Dublin. |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | F17A/0596 |
| Applicant(s) | Joseph Flood. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse. |
| Type of Appeal | First Party. |
| Appellant(s) | Joseph Flood. |
| Observer(s) | None. |
| Date of Site Inspection | 20 th February & 14 th March 2018. |
| Inspector | Patricia Calleary. |

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.87 hectares is located in The Ward, a rural area of north County Dublin, close to the N2 national road and the Meath border. It is located c.750m to the east of Ward cross and is currently accessed off the R121 regional road, which intersects the front of the site. The site as outlined in red comprises two distinct areas, one which is a greenfield area to the north of the road within a larger parcel of land and which appears to be in agricultural use and also contains a dwellinghouse. The other area is a rectangular plot to the south of the road, within an existing yard complex which appears to be in commercial use. On the application submitted, there is a structure marked 'derelict dwellinghouse' within this yard complex.
- 1.2. The area of the site where the dwellinghouse is proposed would be carved from a portion of the wider landholding to the north of the R121. The wider landholding is marked with a blueline boundary. The appeal site at this location is bounded by mature hedgerows to the south (along the roadside) and for a portion of the proposed boundary to the east adjacent to the existing dwellinghouse contained within the overall landholding at this location north of the R121. The boundaries to the east and north of this northern portion of the appeal site are not physically delineated on the ground.

2.0 Proposed Development

- 2.1. As set out in the public notice, the proposed development would comprise a replacement dwellinghouse (south of the R121) on what is stated to be a 'relocated site' (north of the R121). The dwellinghouse would be serviced by an on-site wastewater treatment system and percolation area. Access would be shared with an existing residential vehicular entrance serving the existing dwellinghouse to the east.
- 2.2. The dwellinghouse proposed is that of a storey and a half-pitched roof design with an overall height of 8.9m. It would have a central projecting gable feature. It would have a stated Gross Floor area (GFA) of 357 sq.m and would contain four bedrooms.

2.3. The application was accompanied by a planning statement, engineering services report and an EPA site characterisation form. It also contained plan and elevation drawings of the 'derelict dwellinghouse' shown to the south portion of the site and which it is stated on the drawing title (Dwg No. JF-004) that it is proposed to be extinguished.

3.0 Planning Authority Decision

3.1 Decision

3.1.1. The planning authority issued a decision to refuse permission for two stated reasons, summarised as follows:

- **R1:** Residential use of former structure is long extinguished as no remnants of the structure remain in existence. Residential development would materially contravene 'GB – Greenbelt' land zoning objective.
- **R2:** Development would result in an intensification of use of an existing road entrance onto a heavily trafficked regional road (R121) where inadequate sightlines are available and would endanger public safety.

3.2 Planning Authority Reports

3.2.1 Planning Reports

3.2.2. The main points of the planning officer's report are summarised under.

- The site of the former dwelling is a recorded monument.
- Refers to documentation on file on which it is stated by the appellant that the dwellinghouse was demolished for health and safety reasons.
- Proposal cannot reasonably be considered a replacement dwelling as the dwelling which it is intended to replace is long demolished and the proposal should therefore be assessed as a new dwellinghouse.
- Proposal would lie contrary to the 'Greenbelt' zoning objective.
- Design presents a building which is excessive in scale and its visual impact would be unacceptable.

- Recommends a decision to refuse permission.

3.2.3. Other Technical Reports

- Water Services: No objection subject to conditions.
- Transportation Planning: Requested further information (access and sightlines).
- Planning and Strategic Infrastructure Department: No objection, recommends an archaeological condition (archaeological monitoring).

3.3. Prescribed Bodies

- Irish Water: No objections subject to standard conditions.
- Department of Culture, Heritage and the Gaeltacht: No response.
- DAA: No objection subject to noise assessment and mitigation measures.

3.4. Third Party Observations

- None

4.0 Planning History

- **F03A/1110** – Permission was **refused** by Fingal County Council (2003) for the replacement of an existing dwelling.
- **F04A/0281** – Permission was **granted** by Fingal County Council (2004) for the replacement of an existing dwelling. The location of the proposed house was at the location of Newpark House, southwest of the proposed dwellinghouse location under the current proposals.
- **F11A/0416** – Permission was **refused** by Fingal County Council (2012) for the construction of a new detached three-bedroom dwelling to the rear of an existing dwelling known as Newpark House.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is zoned '**GB – Greenbelt**' in the Fingal Development Plan 2017-2023 with a stated objective to 'Provide for a Greenbelt'. The vision associated with this zoning objective states that the Greenbelt would permanently demarcate the boundary between the rural and urban areas, would check unrestricted sprawl of urban areas and prevent coalescence of settlements to prevent countryside encroachment and to protect the settings of towns and villages. Other relevant provisions and objectives include the following:

- **Housing in the countryside:** The area of Fingal in which the site is proposed is considered to be an area under 'Strong Urban Influence' and those with a rural-generated need for a dwellinghouse will be accommodated while those with an urban-generated housing need will be directed to towns and villages. The reuse of existing buildings within the countryside for residential development will be encouraged.
- **Objective RF31:** Permit a maximum number of one incremental dwellinghouse for those who meet the relevant criteria set out in this chapter within areas with the zoning objective HA or GB, plus one dwellinghouse for a person with exceptional health circumstances.
- **Objective RF34:** Permit up to two additional dwellings per farm family in areas with the zoning objective, RU, and one additional dwelling per farm family within areas with the zoning objective GB or HA, where the applicant demonstrates their direct participation in running the family farm and is considered to have a demonstrated need related to the working of the farm to reside on the family farm.
- **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.
- **Section 12.6:** Design criteria for housing in the countryside - Newly constructed homes will be directed, where possible, to sites which are located

adjacent to existing homes or farmyards belonging to the family of the owner of the new home. Such sites should be served by a single entrance for both the existing and the proposed development.

- **Objective RF70:** Protect and promote the sustainability of rural living by facilitating rural-related enterprise for rural dwellers.
- **Objective RF71:** Reduce the need for commuting to employment in adjacent urban areas.
- **Objective RF56:** Presumption against the opening of a new additional vehicular entrance into the site of a proposed dwellinghouse, unless in the interest of safety or because no viable alternative exists.
- **Objective DM126:** Seeks to restrict unnecessary new accesses directly off regional roads.
- **Objective NH27:** Seeks to protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and / or contribute to landscape character.

5.2. Natural Heritage Areas

- 5.2.1. The closest protected sites include Malahide Estuary SAC (Site Code 000205) and Broadmeadow/Swords Estuary (Site Code 004025). Malahide Estuary proposed NHA (Site Code 000205), all which lie c.9km west of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The following is a summary of the principal planning issues raised in the grounds of appeal.
- Permission was granted for a replacement dwelling under F04A/0281, at a location within the working farmyard and the current proposal seeks permission for a replacement dwellinghouse on a more conducive site.

- It would be important for the applicant to live close to the farmyard complex to reduce his commute to his work and for security reasons to protect his farm equipment.
- Refers to Objectives RF71 (Reduce the need for commuting to employment), RF70 (Facilitate rural-related enterprise), RF77 (Support and facilitate horticultural development), RF34 (Permit up to two additional dwellings per family farm with a zoning objective RU and one additional with a zoning objective 'GB'), RF39 (Permit new rural dwellings in areas which has zoning objectives RU, or GB on suitable sites which meet criteria set out in Table RF03).
- Applicant does not fulfil the requirements for development of a dwellinghouse on 'GB' lands as his sibling obtained planning in 2002 on 'GB' lands, hence the reason for the current application for a replacement home away from the farmyard.
- Applicant is willing to address the traffic movement and sightlines issues raised.

6.1.2. The appeal was accompanied by an engineering report by CS Consulting Group in which the following is put forward.

- Proposal would meet Objective RH22 (presumption against opening up of a new access). Proposal for improved existing entrance is viable, however, appellant is also willing to provide a new dedicated site entrance to serve the development.
- Applicant is also willing to alter the dwellinghouse design to reduce its scale and height.

6.2. Planning Authority Response

6.2.1. The following is a summary of the Planning Authority's response to the grounds of appeal.

- At the time of assessment of the previously permitted dwellinghouse under F04A/0281, the planning officer noted the presence of a derelict structure on

site, however on the day of inspection in relation to the current proposal, no discernible remnants of the structure remained on the site.

- The applicant has not submitted any documentary evidence to demonstrate compliance with Objectives RF34 and RF39 (Rural Housing need). Accordingly, the proposal would materially contravene the 'GB – Greenbelt' land use zoning objective and the rural settlement strategy of the Fingal Development Plan.
- Development would also result in intensification of the use of an existing road entrance onto a heavily trafficked regional roadway (R121), where inadequate sightlines are available.

6.3. **Observations**

- None

7.0 **Assessment**

7.1. **Introduction**

7.1.1. The main issues which arise and which I consider in the remainder of my assessment are:

- Consideration of Planning Policy (including Refusal Reason No. 1)
- Transportation and Traffic (including Refusal Reason No.2)
- Material Contravention
- Other Matters (Archaeology and Appropriate Assessment)

7.2. **Consideration of Planning Policy (including Refusal Reasons No. 1)**

7.2.1. Planning permission is sought for a replacement dwellinghouse in an area with a zoning objective 'GB – Greenbelt'. The appellant states that while permission was previously granted for a similar proposal under F04A/0281, its location within a farmyard was not an appropriate location and the current proposal seeks to address this by relocating the dwellinghouse away from but close to the farmyard complex. It

is stated that the proposal would reduce the appellant's commuting time to his work and would allow him to keep a check on the security of the plant and equipment in the farmyard.

- 7.2.2. The Planning Authority submit that the dwellinghouse that previously existed on site and which it is proposed to replace, 'Newpark House' during their consideration of an application under F04A/0281, which I note was granted permission in 2004, is no longer in existence and therefore the proposal cannot accordingly be considered a replacement dwelling. It is submitted that the proposal for a new dwellinghouse would contravene the applicable 'GB – Greenbelt' land-use zoning objective.
- 7.2.3. Prior to my inspection I observed aerial imagery (Google and OSI mapping) and noted that while 'Newpark House' appears on aerial imagery up to 2005, it does not appear on currently available imagery. In addition, the area which it occupied appears to have been incorporated into an expanded machinery yard complex. On the date of my inspection, there was no physical separation between the former 'Newpark House' curtilage and the adjacent machinery yard. I also noted that the ground over which the house once stood within this yard complex had been evidently very recently excavated and previously buried materials and rubble associated with the structure had been freshly exposed. For reasons of clarity, I can inform the Board that references to a derelict dwellinghouse on site and proposals for its extinguishment as annotated on drawings which accompanies the application are not accurate as Newpark House has already been demolished and the area on which it existed is within the extended machinery yard complex. The planning statement which accompanies the application makes reference to its demolition stating that it had become a safety hazard in the farm environment because of its increased dilapidation. The Planning Authority have stated that aerial photography demonstrates that Newpark house was demolished sometime after 2004. A review of the OSI mapviewer and other satellite imagery would concur with this. I have included copies of aerial imagery from different years as an appendix to this report.
- 7.2.4. The proposal therefore cannot reasonably be considered a replacement dwellinghouse and my assessment proceeds by considering the proposal as a new dwellinghouse on a greenfield site at the proposed location shown north of the road R121 on the submitted drawings.

- 7.2.5. Under the Fingal Development Plan 2017-2023, the site on which the dwellinghouse is proposed to be located is zoned 'GB-Greenbelt' and residential development is strictly controlled in these areas. Those who would be permitted to build a new dwellinghouse include persons who have established a rural generated housing need, in accordance with Objective RF34 (permit one additional family within areas with the zoning objective GB) and Objective RF39 (permit new rural dwellings in areas including GB where applicants meet the criteria set out in table RF03).
- 7.2.6. In relation to compliance with Objective RF34, only one dwelling would be permitted. The appellant states that his sibling was permitted to build a dwellinghouse on the lands in 2002 and that in this regard the proposal would not comply with Objective RF34.
- 7.2.7. In relation to the appellant's reliance on Objective RF39, in addition to the site being considered suitable, the applicant would be required to meet the criteria set out in Table RF03. There are four criteria which I have considered as follows:
- Demonstrates close family ties and where a new rural dwelling has not already been granted. As the appellant states that his sibling was granted permission, this criterion cannot be met.
 - Demonstrates full time occupation in the rural community / economy for 15 years and the applicant has not been granted permission for a rural dwelling since the 19th October 1999. In this regard, sufficient documentary evidence has not been provided to demonstrate that this criterion is satisfied.
 - 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. Based on the information on file, the appellant has not sought to rely on this criterion.
 - A 'bona fide' applicant who may not already live in the area or have family connection or be engaged in particular employment with local needs, subject to a number of criteria (long time commitment to operate a full-time business from their home and that the nature of the business is dependent on its location within the rural area). As no verifiable documentary evidence was submitted, the appellant has not demonstrated that he satisfies this criterion.

- 7.2.8. While it has been stated in the appeal that the appellant actively farms his cattle herd and tillage land in The Ward area of Fingal and needs to reside close to the family yard, no documentary evidence has not been presented to back up this argument. Accordingly, compliance with the criteria for eligible applicants from the rural community for planning permission for new rural housing as set out in Table RF03 has not been demonstrated.
- 7.2.9. On the day of my inspection, the location which is appeared to be referenced as the farmyard was part of a yard occupied by HGVs and a variety of plant and equipment and clearly resembled a commercial machinery yard. It did not in any way resemble a normal farmyard as is submitted in the appeal. There was no evidence of any farm buildings on the yard area and there was no evidence of any associated farm or farm animals proximate to the yard. While the appellant refers to tillage farming and to his animal herd, no maps of verifiable documentation has been submitted and there was no evidence of any link between that observed on the site to tillage, farm animals or other farming activities.
- 7.2.10. Having regard to the above, the development does not meet the provisions of RF39. If permitted, the development would materially contravene the 'GB' land use zoning objective for the site 'to provide for greenbelt' and the corresponding rural development strategy of the Fingal Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

7.3. Transportation and Traffic (including Refusal Reason No.2)

- 7.3.1. Refusal No.2 of the Planning Authority's reasons for refusal centres around the proposal resulting in an intensification of use of an existing road entrance onto a heavily trafficked regional road (R121) where inadequate sightlines are available and, therefore, would endanger public safety.
- 7.3.2. The proposed development would involve the use of a shared vehicular entrance for the proposed dwelling, an existing dwelling and an access to a field at the rear of the existing dwelling, off the R121 regional road. It is acknowledged by the Transportation Planning section, and I equally acknowledge that the existing entrance is already permitted and serves an established residential use and that the

use of a shared access would avoid the need to form a new access from the regional road. The use of the entrance to accommodate an additional dwellinghouse, however, requires re-assessment as part of the current proposal.

- 7.3.3. The proposed development is likely to generate more frequent vehicular movements to and from the site. It is sited along a stretch of road which lies within the 80km/hr speed limit and in accordance with TII's publication DN-GOE-03060 (April 2017), a 145m ('y') sightline is required in both directions, with a setback ('x') of 2.4m. To achieve this required sightline on the east side, it would be necessary to cut back the hedge for a significant distance across the front of site. The available sightline to the west is restricted because of a bend in the road and would measure c.70m, which is considerably less than the required sightline.
- 7.3.4. The current proposal would result in an intensification of use of an existing vehicular access onto a heavily trafficked regional road (R121) where inadequate vehicular sightlines are available to enable safe access to and egress from the site. This would lie contrary to Objective DM126 of the Fingal Development Plan 2017-2023, which seeks to restrict unnecessary new accesses directly off regional roads. The removal of the hedgerow for such a distance would also lie contrary to Objective NH27 which seeks to protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and / or contribute to landscape character.
- 7.3.5. The transportation planning section considered that the application as it stands, would present a traffic hazard. It is acknowledged by the Transportation Planning Section that it may be possible to provide a new access further east to achieve the necessary sightlines. While the appellant states their willingness to reposition the access, no such proposal or sightlines were presented with the application or appeal.
- 7.3.6. Having regard to the above and to the information gathered during my site inspection, the proposed development would intensify an existing access onto a heavily trafficked regional road where sightlines are not achievable. It would endanger public safety by reason of a traffic hazard. The development would therefore be contrary to the proper planning and sustainable development of the area and permission should be refused accordingly.

7.4. Material Contravention

- 7.4.1. Reason No.1 of the Planning Authority's decision was based on the grounds that the proposed development would materially contravene the 'GB – Greenbelt' land-use zoning objective, set out in the Fingal Development Plan 2017-2023.
- 7.4.2. In this context, if the Board were minded to grant permission for the proposed development, Section 37(2)(b) of the Planning and Development Act 2000, as amended, must be considered. Section 37(2)(b) requires that if the Planning Authority have decided to refuse permission on the grounds that a proposed development materially contravenes the Development Plan, the Board may only grant permission in certain circumstances. In summary, these circumstances include:
- i. The proposed development is of strategic or national importance,
 - ii. There are conflicting objectives in the development plan or the objectives are not clearly stated,
 - iii. Permission for the proposed development should be granted having regard to regional planning guidelines, ministerial guidelines or policy directives, statutory obligations of any local authority in the area, and Government policy,
 - iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 7.4.3. None of the above provisions could be relied on in my view. Clearly, there is no national or regional planning policy support for one-off dwellinghouse on Greenbelt zoned lands, and the development is not supported by policies of the Development Plan. The objectives of the plan are clearly stated. The pattern of development is not one which would support the proposal of a one-off dwellinghouse on Greenbelt zoned lands.
- 7.4.4. Accordingly, I conclude that the proposed development would contravene the Fingal Development Plan 2017-2023 and I do not consider that there are grounds for the Board to overturn the decision of the Planning Authority, in accordance with the provisions of Section 37 of the Planning and Development Act 2000, as amended.

7.5. Other Matters

7.5.1. Archaeology

7.5.2. A report was received from the community archaeologist (Planning and Strategic Infrastructure Department, Fingal County Council) noting that the proposed development is located across from the now demolished Newpark House (DU11-076---) and west of cropmark features (DU011-021---), south of the river Ward.

7.5.3. 'Newpark House' (now demolished) relates to a 18th/19th century house. According to information on the National Monuments Service Archaeological Survey Database, the following Description is given (Date of upload 9th January 2015).

- 'The Down Survey (1655-6) map mentions a 'Fayre House'. It has been suggested that Newpark House could be the site of or incorporated this dwelling. A single wall with hearth visible, possible remains of Newpark House were demolished. Surviving stable building to north. Located within a yard used for machinery storage and plant hire'.

7.5.4. Accordingly, it is recommended that archaeological monitoring of all groundworks that could impact on sub-surface remains is undertaken. A suggested condition is contained in the community archaeologist's report. The Department of Culture, Heritage and Gaeltacht were consulted by the Planning Authority, however, there is no response contained on the file. Should the Board be minded to grant permission, a condition requiring archaeological monitoring of all groundworks that could impact on sub-surface remains should be attached.

7.5.5. Appropriate Assessment

7.5.6. Having regard to the nature and scale of the proposed development and the separation distances to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Further to the above planning assessment of matters pertaining to this appeal and including my site inspection, I recommend that permission is **refused** for the proposed development for the reasons and considerations set out directly below.

9.0 Reasons and Considerations

1. The proposed development relates to the construction of a new dwellinghouse to replace a former dwellinghouse which was located in a location, c.200m distant from the proposed site and which has since been demolished. As the former dwellinghouse has ceased to exist at its former location which has since been incorporated into an expanded commercial yard, the proposal cannot reasonably be considered a replacement dwellinghouse. Under the Fingal Development Plan 2017-2023, the site is zoned 'GB-Greenbelt' within which new residential development is only permitted where the applicant has established a rural generated housing need in accordance with Objectives RF34 (permit one additional dwelling per farm family) and RF39 (permit new rural dwellings in areas which have a zoning objective GB, where the applicant meets criteria set out in Table RF03). As sufficient documentary evidence has not been presented by the appellant such as would demonstrate compliance with these rural housing need objectives, the development would materially contravene the 'GB – Provide for a Greenbelt' land use zoning objective applicable to the site and the corresponding rural development strategy of the current Fingal Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in an intensification of use of an existing road entrance onto a heavily trafficked regional road (R121) where inadequate vehicular sightlines are available such as would enable safe access and egress to and from the site. Accordingly, the proposed development would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

Patricia Calleary
Senior Planning Inspector

20th March 2018