



An  
Bord  
Pleanála

## Inspector's Report ABP-301887-18

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<b>Development</b>	House, driveway, wastewater treatment tank, well and all associated site works.
<b>Location</b>	Meagan's Lane, Boherboy, Saggart, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0105
<b>Applicant(s)</b>	Noel & Patricia Kinsella
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Noel & Patricia Kinsella
<b>Observer(s)</b>	An Taisce
<b>Date of Site Inspection</b>	24 <sup>th</sup> August 2018
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.9461ha, is located immediately to the south of the N81 National Secondary Road at The Embankment – some 2km south-southeast of the village of Saggart in Co. Dublin. There is no access to the site from the N81, but rather from country road L7355 (Meagan's Lane) off the N81. The 80kph speed restriction applies in this area. There are no public footpaths and there is no public lighting. Meagan's Lane is a narrow, twisting and hilly road linking the N81 with the L7377 county road to the southeast. This road serves approximately twenty houses, agricultural land and some forestry. It is not possible to pass two cars along most of its length. The surface of the road is good. Sight visibility at the junctions at either end of Meagan's Lane is restricted – particularly the adjacent junction with the N81 (in the direction of Blessington). There are no hard shoulders on the N81 at this location, and there is no right-turning lane into Meagan's Lane. There is a single, unbroken white line in the centre of the N81. There are bus stops on either side of the N81 at the junction.
- 1.2. The access to the site is off a narrow private laneway which once had tarmacadam, but much of which is washed away. The lane slopes downhill from Meagan's Lane towards the site. It is not possible to pass two cars along its 140m length. This laneway serves one other house and some agricultural land. There is also access from it to the garden of a house to the west (which house had a separate access off Meagan's Lane). Sight visibility at the junction of the private access laneway and Meagan's Lane is poor.
- 1.3. The site comprises a small grassed field. The ground rises away from the N81 towards the south – the difference in level being between 190m and 206m OD. There are fine views from the site across the Slade Valley to the north and the city suburbs beyond. To the south, the site abuts agricultural land, the boundary with which is a good-quality hedgerow. To the east, the site abuts the house and garden of the parents of one of the applicants and an associated small field – the boundary with which is a poor-quality hedgerow. This dormer house has been partially constructed on an artificial platform supported by gabion. A domestic wind turbine is located within the curtilage of the house. To the northwest, the site abuts the N81 – the boundary with which is a post & wire fence with some mature ash trees. The site

is particularly visible from this National Secondary Road. To the west, the site abuts a small field and two-storey house – the boundary with which is a good-quality hedgerow.

- 1.4. Traffic noise from the N81 was particularly noticeable – partly due to the elevation of the site above the road.

## 2.0 Proposed Development

2.1. Permission sought on 29<sup>th</sup> March 2018, to construct a single-storey, split-level house of 169m<sup>2</sup> using a shared vehicular access. Water supply is from a proposed well. Foul waste is discharged to a packaged wastewater treatment system and polishing filter. Surface water is discharged to soakway. The split-level house is provided with pitched roofs with a maximum ridgeline height of 6m.

2.2. The application is accompanied by-

- A number of photomontages.
- A letter of consent to the making of the application from the father (the landowner) of one of the applicants.
- Planning Report in support of the application.
- Site Characterisation Form for disposal of effluent to a packaged wastewater treatment system and polishing filter.
- Details of design of soakways for surface water.

## 3.0 Planning Authority Decision

By Order dated 23<sup>rd</sup> May 2018, South Dublin County Council issued a Notification of decision to refuse planning permission for 9 reasons, which can be summarised as follows-

1. Conflict with policy H20 of the Development Plan which seeks to restrict housing in rural areas. Development would lead to the demand for the provision of uneconomic services in the area.
2. Conflict the RU rural area zoning, where housing is permitted only in exceptional circumstances.

3. Proliferation of one-off housing within the Dublin Metropolitan Area, which would be contrary to the Regional Settlement Strategy of the Greater Dublin Area.
4. Site is located within the Athgoe and Saggart Hills Landscape Character Area, which has high landscape value and sensitivity with negligible to low landscape capacity.
5. Site does not possess a minimum road frontage of 60m – and has none at all, and represents unacceptable backland development. It would set an undesirable precedent for other similar types of development.
6. Access road (Meagan's Lane) is unsuitable for this type of development which would endanger public safety by reason of traffic hazard.
7. Provision of necessary sightlines at the access would necessitate the removal of sections of hedgerow, which would contravene 'RU' zoning.
8. The development would impact negatively on views which are to be protected and preserved.
9. Undesirable precedent for other similar-type development.

## 4.0 Planning History

**Ref. SD15A/0213:** Permission refused to same applicants for construction of a house and farm building on this same site

**Ref. SD03A/0257:** Permission granted to parents of one of the applicants, to construct a house on the site immediately to the east. This house was built.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant document is the South Dublin County Council Development Plan 2016-2022.

- The site is zoned 'RU' – 'To protect and improve rural amenity and to provide for the development of agriculture'.

- There is a long-term proposal to upgrade the N81 in the vicinity of this site.
- There is an objective to protect and preserve significant views over the Slade Valley to the northwest and north – both from the N81 and from Meagan’s Lane.
- Section 2.5 of the Plan deals with rural housing.

## 5.2. Natural Heritage Designations

There are no natural heritage designations in the immediate area. The closest is the Glenasmole Valley SAC (Site code 001209), some 4.0km to the east-southeast. The Slade of Saggart & Crooksling Glen proposed Natural Heritage Area (pNHA) (Site code 000211) straddles the N81 some 0.7km to the southwest of the site of the proposed house.

## 5.3. Landscape Character Assessment

The site is located within the Athgoe and Saggart Hills Landscape Character Area (LCA – 3), as defined by the Landscape Character Assessment for South Dublin County 2015. This area has ‘high’ overall visual sensitivity, and a ‘negligible to low’ landscape capacity. “The integrity of the landscape character is derived from agriculture combined with other rural land uses including coniferous plantations. It forms a strong and valuable backdrop to the extensive and densely urbanised areas of the county. The integrity of its character, and of its value as a landscape setting have been compromised by housing developments in the area and through the use of non-vernacular styles very much in conflict with the local character”.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The appeal from Future Analytics Consulting Ltd, agent on behalf of the applicants, Noel & Patricia Kinsella of ‘Isola’, Meagan’s Lane, Saggart, received by An Bord Pleanála on 19<sup>th</sup> June 2018, can be summarised in bullet point format as follows-

- The Planning Report submitted with the original application to SDCC, provides a strong case for permitting a house on this site to the applicants.
- The applicants and their children currently reside with Patricia's father in the adjoining house – and have done so since the mid-2000s.
- The house will not impinge on the 'RU' zoning. The applicants have a long-standing connection with the area – dating back to the mid-1800s.
- The applicants keep sheep on lands rented at Glenaraneen – some three minutes away by car.
- The applicants would not require additional public services – providing their own well, effluent treatment and surface water treatment.
- Meagan's Lane is currently adequate for access to the house where the applicants reside. There will be no additional traffic created, as the applicants already live here.
- A development contribution would be applied by SDCC to any grant of permission, which monies could be put towards the provision of infrastructure and services.
- The Development Plan does not define 'exceptional circumstances'.
- This proposal is rural-generated, and not urban-generated. The principles of the Regional Settlement Strategy are being applied in a blanket form, without consideration of the local needs of the applicants.
- The site cannot be seen from the east, south or west. The site is only visible from the N81. Visual impact would be mitigated by the proposed landscape planting of the site. There is a substantial vegetated backdrop to the south of the site.
- The site has road frontage of more than 60m along the N81. It is not feasible to create an access on this frontage due to proposals to upgrade the N81. The only option for access is from Meagan's Lane. The PA was satisfied to give permission for the house to the east (father of Patricia) in 2003, where similar policies prevailed and access was taken from Meagan's Lane instead of the N81.

- There will be no interference with the hedgerows along the N81.
- The proposal would not comprise ribbon development. The proposal does not constitute backland development either. The house will line up with the one to the east – and will flank the N81 at a similar set-back.
- Meagan’s Lane is not substandard – it already provides access to the house in which the applicants reside. There have been no collisions, fatal or otherwise at the access off Meagan’s Lane in the past ten years.
- No hedgerows will be removed, as the sightlines already exist at the entrance off Meagan’s Lane.
- The development will not impinge of protected views. Views from the N81 are to the north and not to the south. The view towards the site from Meagan’s Lane is not understood to be protected, but is in any case not impacted, due to screen vegetation and topography.
- The development would not set an undesirable precedent, as it adheres to national and county policy.
- It is an objective of the Plan that every household in the County will have access to secure, good quality housing suited to their needs at an affordable price and in a sustainable community.
- The house has been designed to a high standard. It will allow the applicants to acquire a house at an affordable price. This is a low-density residential development on a suitable site.

6.1.2. The response is accompanied by a copy an OS 1:2500 map extract, showing lands outlined in blue, at Glenaraneen, Brittas, which are leased by the applicants for sheep farming.

## 6.2. **Planning Authority Response**

The response of SDCC, received by An Bord Pleanála on 16<sup>th</sup> July 2018, can be summarised in bullet point format as follows-

- The National Planning Framework seeks to manage growth of areas that are under strong urban influence to avoid over-development.

- The NPF refers to demonstrable economic or social need to reside in rural areas under strong urban influence.
- It is the policy of the Council to restrict the spread of housing in ‘RU’ area, amongst others.
- Rural housing policies contained within the County Development Plan seek to restrict housing on sites such as this one.

## 7.0 Observations

There is one observation from An Taisce, received by An Bord Pleanála on 12<sup>th</sup> July 2018, which can be summarised in bullet point format as follows-

- Whilst the area of the site is zoned ‘RU’, it is located quite close to the ‘HA’ high amenity zoning of the Dublin Mountain Area (on the opposite side of Meagan’s Lane).
- The settlement strategy for the Greater Dublin Area supports the use of these lands for agricultural, horticultural and equestrian use, to serve the population of nearby Dublin.
- The house will be visible from Meagan’s Lane – with protected views.
- If permission is granted, it could set a precedent for other similar types of development on Meagan’s Lane.

## 8.0 Assessment

### 8.1. General Comment

The principal issues of this appeal relate to national and county policy in relation to housing in rural areas, the design of the proposed house, access, water supply/effluent disposal, and visual amenity.

### 8.2. Development Plan & Other Guidance

- 8.2.1. The “Sustainable Rural Housing – Guidelines for Planning Authorities 2005” document, indicates that the site is located within an Area Under Strong Urban



Influence, arising from proximity to metropolitan Dublin. Rural generated housing for persons who are an intrinsic part of the rural community can be countenanced where there is a genuine housing need. From documentation submitted, it is clear that the occupants are an intrinsic part of the rural community. They currently reside with the father of one of the applicants, in a large house to the east of the appeal site. This dwelling would be more than large enough for sub-division, as referenced in section 2.5.1 of the County Development Plan.

- 8.2.2. The zoning of the site 'RU', seeks to- 'Protect and improve rural amenity and to provide for the development of agriculture'. One family house has already been provided on this small agricultural landholding straddling the N81. Residential use is 'Open for Consideration' in accordance with Council policy for residential development in rural areas.
- 8.2.3. Section 2.5 of the Plan deals with rural housing. Housing (H) Policy 20 Management of Single Dwellings in Rural Areas states- "It is the policy of the Council to restrict the spread of dwellings in the rural "RU", Dublin Mountain 'HA-DM', Liffey Valley 'HA-LV' and Dodder Valley 'HA-DV' zones and to focus such housing into existing settlements". The site is in close proximity to suburban Fortunestown and Jobstown to the northeast, and Saggart village and environs to the north. Reference is made to- "cognisance of the demand to provide support for dependents including family members and older parents in rural areas through dwelling subdivision". Housing (H) Policy 22 Rural Housing in RU Zone states- "It is the policy of the Council that within areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances'. The appellant correctly points out that 'exceptional circumstances' are nowhere defined in the Plan. The policy simply refers to need to reside in proximity to employment or close family ties. I would not consider that the applicants have demonstrated any 'exceptional circumstances' which would justify another house on this small family landholding.
- 8.2.4. Arguments have been put forward in relation to road frontage available for this site. Reports on file make reference to a requirement for 60m of road frontage. It is not clear where this standard comes from. The site does have approximately 80m of road frontage on the N81, but access from this road is not reasonable, even though there are some older houses to the east which do have direct access from the N81.

I would not consider that this site could be regarded as backland development, because it is not feasible to take access from the N81. I have elsewhere in this report commented on the proposed access arrangements in relation to traffic safety and obstruction of road users.

- 8.2.5. I would not consider that the applicants have demonstrated a housing need in this particular location in accordance with Development Plan policy. The applicants currently reside in the area, and permission has already been granted for one house on this small, family landholding in a rural area of the county, under strong pressure for development arising from proximity to metropolitan Dublin.

### 8.3. **Layout & Design**

- 8.3.1. The house is placed at the most elevated part of the site – in line with the adjoining house to the east. The reason for this location is easy to see – the views being most attractive, and the distance being furthest from the noise of traffic on the N81. There is a long-term roads objective to improve the N81, and this could result in the requirement to acquire some of the site in the future, to facilitate road improvements. However, the location of the house at the highest point also renders it most visible from the N81, as is the case with the house in which the applicants currently reside – to the east. I have elsewhere in this report commented on visual impact.
- 8.3.2. The design of the proposed house is modest in comparison to the very large house in which the applicants are stated to reside to the east. The splitting of the proposed house into two elements serves to break up the massing and bulk of the structure. I have elsewhere commented on the height of the house – particularly when viewed from the N81 and the north, and would consider that the ridgeline height is unnecessarily high for a single-storey house. If the Board is minded to grant permission for this development, I recommend that the ridgeline height be reduced by at least 1m on both parts of the house.

### 8.4. **Water**

#### 8.4.1. Water Supply

It is proposed to sink a well on this site, immediately to the west of the house – and uphill of the proposed effluent treatment unit. The well is indicated as being 43m

from the proposed soil polishing filter. This distance and the gradient involved are sufficient to ensure that the potable supply to the house will not be contaminated.

#### 8.4.2. Foul Waste

The application was accompanied by a Site Characterisation Report. The water table was encountered approximately 1.7m below ground level. The site slopes away from the house towards the N81 to the north. An Oakstown BAF wastewater treatment plant is to be provided with a 90m<sup>2</sup> polishing filter located downslope of it. The polishing filter is 29m from the house. I would be satisfied that the proposed arrangements for disposal of domestic effluent would not be prejudicial to public health. There appears to be no Foul Drainage Report from the Environmental Health Officer of SDCC.

#### 8.4.3. Surface Water

The application is accompanied by an assessment of the site for disposal of surface water to soakways. Having regard to the location of the site above the N81, it is particularly important that surface water from this development does not discharge onto that road. Soakway trenches with a storage volume of 15.65m<sup>3</sup> are proposed. This should be more than adequate to cater for a 1-in-100 storm event at this site. Because of the sloping nature of the site, there is no likelihood of flooding.

### 8.5. **Access**

- 8.5.1. The access to the existing house on the site to the east is via a right-of-way from Meagan's Lane. This laneway is 140m long. It is not possible to pass two cars along its length. It is not possible to see from one end of it to the other. The laneway is also on a gradient. In the event that two vehicles meet, one would have to reverse out of the laneway – either back to the existing house or onto Meagan's Lane. This is an unsatisfactory situation and the laneway is not an appropriate form of access to multiple housing units. The laneway is currently gated. This necessitates drivers of vehicles to leave the vehicle to both open and close the gate – either of which movements would result in obstruction of Meagan's Lane. Adjoining residential accesses are either recessed or have open gates. Sight distance in either direction at the existing access to the site is restricted. There is no means of improving this, as the applicant has not indicated any control or ownership

over adjoining lands to southeast or west. Additional turning movements out of this site would, therefore, result in traffic hazard.

8.5.2. The 80kph speed restriction applies in this area. There are no public footpaths and there is no public lighting. Meagan's Lane already provides access to approximately twenty houses and to agricultural land. It is not possible to pass two cars along most of its length. There is one stretch between the proposed access and the N81 junction along which it is not possible to pass two cars, notwithstanding that some of Meagan's Lane has been widened in association with the construction of one-off housing. Additional vehicle movements on Meagan's Lane would result in obstruction of road users. The likeliest direction of access/egress is via the N81. Sight distance towards Blessington, at the junction of the N81 and Meagan's Lane, is restricted. Additional turning movements at this junction would constitute a traffic hazard. There is no right-turning lane into Meagan's Lane from the N81, and neither are there hard shoulders at this location. Additional turning movements would result in obstruction of road users on the N81 and would reduce the carrying capacity of this National Secondary Road.

8.5.3. The claim that, as the applicants are already residing in the house to the east, there will be no additional traffic generated is not realistic. The traffic generated by two separate households would be greater than traffic generated by one household. Over time, occupation of houses can change, and houses can be sold or let. A second house from the same access will result in the generation of additional traffic movements – regard being had to the isolation of the site and the necessity for car journeys to access the most basic of services – notwithstanding the presence of a Dublin Bus route on the N81. There are no public footpaths and there is no public lighting in the area which would facilitate safe pedestrian or cycling journeys to access services.

## 8.6. Visual Impact

8.6.1. The split-level house has two parts – each with a ridge-line height of 6m. The ground in this area falls away to the north, and so the northern elevations of the house will appear taller than the southern. I calculate that the height from the northern side is approximately 7.5m. This is a considerable height for a single-storey house. The house will be visible from the N81 – located as it is on rising ground.

The adjoining house to the east is already particularly visible from the N81. There is, however, no Development Plan objective to protect and preserve significant views on the site side of the N81. Notwithstanding this, the house, as proposed, would be particularly dominant in the landscape in this rural area, when viewed from the N81, and would effectively appear as a two-storey height structure. There is no proper hedgerow along the N81 boundary – just some mature ash trees and a post & wire fence. The applicant has proposed some landscape planting to screen the house from view, but such landscaping would ultimately screen the impressive views to the north and northeast from this site.

8.6.2. The site is situated in the Athgoe and Saggart Hills Landscape Character Area. This area has ‘high’ overall landscape sensitivity, and a ‘negligible to low’ landscape capacity. The construction of a house on this site between a house to the east and one to the west, would mitigate against the preservation of the landscape character and would tend towards the creation of ribbon development along this side of the N81.

8.6.3. There is an objective to protect and preserve significant views on the site side of Meagan’s Lane, notwithstanding the agent for the applicants’ understanding that such does not exist. This is referred to in the observation from An Taisce, and is clearly evident from the relevant Development Plan map extract. The existing house immediately to the east is clearly visible in the view from Meagan’s Lane, and the proposed house will be similarly visible, notwithstanding the presence of an hedgerow immediately to the south of it. In winter, when hedgerows are stripped of most of their foliage, the house would be particularly visible in this view. Permission should be refused for this reason.

## 8.7. **Other Issues**

### 8.7.1. Financial Contribution

The decision to refuse permission results in the issue of a development contribution in accordance with the Development Contribution Scheme of the Council not being addressed. In the event that the Board is minded to grant permission, then it would be appropriate to attach a condition requiring payment of a development contribution. In refusing permission, the PA referred to the generation of demand for

provision of uneconomic services which might be created. This is a reasonable contention, particularly where a significant cluster of houses in a rural area can result in demands for footpaths, public lighting and speed control measures. The applicant correctly points out that water supply, foul waste disposal and surface water disposal will be dealt with within the site curtilage. Reference is made to the requirement to pay a development contribution which would be applied by the PA to any grant of permission, and this sum could be put towards the provision of services in the area. However, the provision and ongoing maintenance of services for housing at such low density, would place an uneconomic burden on the Council into the future.

#### 8.7.2. Appropriate Assessment

The site is neither within nor immediately abutting any European site. The development is not necessary for the management of any European site. The closest European site is some 4km distant within the Glenasmole Valley. This SAC is located within a different catchment, and there is no link between it and the appeal site. Having regard to the scale of the proposed development and proximity of the closest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

#### 8.7.3. Precedent

One of the reasons for refusal quoted by SDCC related to the creation of precedent by granting permission for a house on lands zoned 'RU'. The applicants contend that the development is in accordance with the Development Plan, and so, would not result in creation of an undesirable precedent. I would consider that each case should be dealt with on its merits.

#### 8.7.4. Part V Social & Affordable Housing

The proposed development would not trigger the requirements under this provision of the Planning & Development Acts.

#### 8.7.5. Proposed Natural Heritage Area

The house site is located some 0.7km to the northeast of the Slade of Saggart and Crooksling Glen pNHA. The site is located uphill of the proposed development, and

will not have any impact on nature conservation. I note that the N81 runs along and through the pNHA.

#### 8.7.6. Occupancy Condition

Section 2.5.7 of the Plan refers to a seven-year occupancy condition for new houses in the 'RU' zoning. If the Board is minded to grant permission for this development, then it would be appropriate to attach such a condition.

### 9.0 **Recommendation**

I recommend that permission be refused for the Reasons and Considerations set out below.

### 10.0 **Reasons and Considerations**

1. The proposed development of a second family house on this small family landholding, on lands zoned 'RU' – "To protect and improve rural amenity and to provide for the development of agriculture" in the current Development Plan for the area, would be contrary to rural housing policy to restrict the spread of dwellings and to focus such housing into existing settlements. The applicants have not demonstrated exceptional circumstances which would justify the grant of planning permission for an additional house, in the circumstances where they currently reside in a large house on the family landholding. The proposed development would be contrary to the proper planning and sustainable development of the area.
2. The access to this site, via a gated private access laneway, on which it is not possible to pass two vehicles along its 140m length, and where sight visibility at the junction with Meagan's Lane is restricted in either direction, would endanger public safety by reason of traffic hazard and obstruction of road users, arising from the additional traffic movements which would be generated by the development.
3. Meagan's Lane, from which the development takes access, is substandard in terms of width and alignment, and lacks public footpaths and public lighting. The additional traffic movements which this development would generate on

such a substandard road, where there has already been significant development of one-off houses, would endanger public safety by reason of traffic hazard and obstruction of road users.

4. The junction of Meagan's Lane with the N81 National Secondary Route is substandard in terms of alignment, sight visibility and layout. Additional turning movements, which would be generated by this development would endanger public safety by reason of traffic hazard and obstruction of road users. The proposed development, by itself or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of a national road or other major road by traffic.
5. The proposed development would interfere with the character of the landscape, and with a view or prospect of special amenity value which it is necessary to preserve from Meagan's Lane.

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**Michael Dillon,  
Planning Inspectorate.**

**29<sup>th</sup> August 2018**