



An  
Bord  
Pleanála

## Inspector's Report ABP-302033-18

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<b>Development</b>	Construction of split-level house.
<b>Location</b>	'Elsemere', Tibbradden Road, Rockbrook, Dublin 16.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0124
<b>Applicant(s)</b>	Aoife & Eoin Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Aoife & Eoin Ryan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> September 2018
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.1715ha, is located on the inside of a right-angled bend on Tibbradden Road (L4027), at its junction with Mutton Lane, at Rockbrook, in the foothills of the Dublin Mountains. It is located on or about the 140m contour – falling steeply from east to west – the difference in levels being approximately 7m. The site was dry under foot on the date of site inspection. It forms part of the mature garden curtilage of a large, three-storey, red-brick house, located to the north of the site. There is a large double garage with dormer accommodation, and an old single-storey, galvanised iron-roofed, cottage within the curtilage of the aforementioned house. The house to the north is served by a recessed entrance from Tibbradden Road. Sight distance in either direction at this entrance is severely restricted by the roadside boundary wall and hedge of the property.
- 1.2. The 50kph speed restriction applies in this area. There are no public footpaths and there is no public lighting. There is a single, unbroken, white line in the centre of Tibbradden Road at this location. The road is wide enough for two vehicles to pass with care. The junction of Tibbradden Road with the R116 road to the northwest of the site is poorly aligned – necessitating left-turning vehicles from Tibbradden Road into the R116 road crossing the central median of one or other of the roads. There is a substantial amount of one-off housing lining the roads in the vicinity.
- 1.3. Tibbradden Road forms the county boundary with Dún Laoghaire/Rathdown County – the opposite side of the road being within the adjoining county.
- 1.4. To the east, the site abuts Tibbradden Road – the boundary with which is a granite wall of between one and two metres in height, backed by a high, Leyland cypress, trimmed hedge. To the south, the site abuts Tibbradden Road – the boundary with which is a 1.2m high granite wall and similar trimmed hedge along part of it. To the west, the site abuts an unnamed, fast-flowing, stream in deep cut – along which there is mature vegetation, comprising mostly ash and sycamore trees. Tibbradden Road crosses this stream on a high stone arch bridge, at the southwest corner of the site. To the north, the site abuts the curtilage of a three-storey house – the boundary with which is undefined.

## 2.0 Proposed Development

2.1. Permission sought on 17<sup>th</sup> April 2018, for development of a split-level house of 332m<sup>2</sup>. The house is part single-storey-plus-attic and part two-storey-plus-attic. External finishes include rendered walls, stone cladding, slate roof and zinc roofing to flat-roofed portions. The existing vehicular entrance to a house located to the north is to be reconfigured, to provide a joint access for the existing house and the new house from Tibbradden Road. The roadside boundary is to be set back to improve visibility splays. Water supply is to be from a 4" main located in Tibbradden Road, just to the south of the site. Foul waste is to be discharged to a 'Biocycle' effluent treatment system with 15m<sup>2</sup> polishing filter. Surface water is to be discharged to a soakway of 21m<sup>2</sup> and 1.2m depth.

2.1.1. The application was accompanied by the following documentation of note-

- Engineering Services Report – dated 12<sup>th</sup> December 2016.
- Natura 2000 Screening Report – dated April 2018.
- Planning Statement – dated April 2018.
- Letter of consent from owners of site, Michael & Deirdre Burns, to making of the planning application by their daughter.
- Details of the applicants' connections with the area.

2.2. Unsolicited additional information was received on 23<sup>rd</sup> May 2018, in relation to surface water drainage calculations.

## 3.0 Planning Authority Decision

By Order dated 11<sup>th</sup> June 2018, South Dublin County Council issued a Notification of decision to refuse planning permission for seven reasons, which may be summarised as follows-

1. The site is within the Dublin Metropolitan Area, and a house would be contrary to the requirements of the Strategic Planning Guidelines for the Greater Dublin Area 2010-2022.

2. Contravene the housing objectives of the Development Plan – in particular Housing Policy H20, in a rural area lacking services, and having a substandard road network.
3. The family ties with the area are not sufficiently long-standing. The applicants have not established a need to reside in close proximity to a rural-related employment.
4. Significant cut and fill would be required to build this house. This would have a negative impact on the landscape of the area and would materially contravene Policy H27 and HCL7 of the Plan.
5. The area has a high Landscape Value and Sensitivity and a Landscape Capacity which is negligible. The development would result in a significant change in the Landscape Character of the area.
6. The stream which adjoins the site forms part of an evolving Green Infrastructure network for the county. The development would impact negatively on the flora, fauna, soil and water in the area which would result in a significant loss of biodiversity.
7. The development would set an undesirable precedent for other similar types of development.

#### 4.0 Planning History

**Ref. SD17A/0189:** Permission was refused on 31<sup>st</sup> July 2017, for development of a house on this site, with shared vehicular access. The applicants were the same as in the current appeal.

#### 5.0 Policy Context

##### 5.1. Development Plan

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

- The site is zoned 'RU' – To protect and improve rural amenity and to provide for the development of agriculture. Residential development is 'Open for Consideration' within this zoning.

- Section 2.5 of the Plan deals with rural housing.

## 5.2. Natural Heritage Designations

There are no natural heritage designations either within, or immediately abutting the appeal site. The closest are the Wicklow Mountains SAC and the Wicklow Mountains SPA – some 2.5km to the south.

## 5.3. Landscape Character Assessment

The site is located within the River Dodder and Glenasmole Valley Landscape Character Area (LCA 4), as defined by the Landscape Character Assessment for South Dublin County 2015. This area has ‘medium-high/high’ overall landscape sensitivity, and a ‘negligible landscape capacity.’

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal from Downey Planning, agent on behalf of the applicants, received by An Bord Pleanála on 9<sup>th</sup> July 2018, can be summarised in bullet point format as follows-

- The applicants cannot afford to buy a house in this area. They have been priced out of the market. This constitutes an exceptional need to reside in the area.
- The applicants and their son have been residing in the house to the north since 2010.
- Both applicants have close family ties in the area. Both area heavily involved in the parish and community.
- The parents of Aoife Ryan are now elderly and need looking after.
- The development can be characterised as infill on a site with mature screen planting. There is a large house located to the immediate northwest – on the opposite side of the stream.

- It is unjust to claim that the development would set an undesirable precedent, as each case should be dealt with on its merits.
- The development has had regard to the Regional Planning Guidelines for the Greater Dublin Area. The site is surrounded by houses.
- The applicants are currently residing in the house to the north – so there will be no additional traffic. Appropriate sightlines can be provided at a redesigned entrance. The Roads Department of the Council had no objection to the development. The site is not agricultural – and so would not lead to urban sprawl or ribbon development.
- Rockbrook has a number of community facilities and services.
- Dún Laoghaire/Rathdown County Council have granted permission for a rugby grounds and clubhouse on Tibbradden Road – some 0.4 miles from the site. This development will be far more visually intrusive than the proposed house.
- The National Planning Framework encourages sustainable rural development.
- The development is in accordance with the Sustainable Rural Housing Guidelines.
- The site is located within the settlement of Rockbrook. Maps submitted show the extent of development in the vicinity of the site.
- The house has been sensitively designed and will not have a negative impact on the built or natural environment. It has been reduced in scale and bulk by reference to the previous application. The house will not be fully visible from the road. It will be at a lower level than the house to the north. It will not have a negative impact on the Landscape Character of the area.
- The Board has previously granted permission for houses in the Dublin Mountains at more elevated locations, and also in Rockbrook village.
- In response to reason for refusal no. 6, the appellants engaged an ecologist to report on the ecology of the site, and concluded that there would be no direct effect on the downstream Owendoher River. The stream on the site boundary is fast-flowing. The steep banks are largely clothed with semi-natural

vegetation. The development is set back 10m from the edge of the stream, and this complies with guidance from Inland Fisheries Ireland. There will be no removal of riparian vegetation. The vegetation to be removed is garden vegetation of limited biodiversity value. Measures will be taken during construction to ensure no pollutants enter the stream on the site boundary. An AA screening report submitted with the application concluded that there would be no impact on European sites.

## **6.2. Planning Authority Response**

The response of South Dublin County Council, received by An Bord Pleanála on 3<sup>rd</sup> August 2018, indicated that the PA had no further comment to make.

## **6.3. Observations**

None received.

## **7.0 Assessment**

The principal issues of this appeal relate to the principle of housing development in a rural area, the design of the house & visual impact, traffic safety and drainage.

### **7.1. Development Plan & Other Guidance**

- 7.1.1. The parents of Aoife Ryan continue to reside in the house to the north of the site – where they have lived for over 25 years. The applicants and their son, reside in the same house. Eoin Ryan is also from the area, and is employed in a workshop at nearby Kilmashogue. The site is a gift from Aoife Ryan’s parents.
- 7.1.2. 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 parents of one of the applicants, in a large house to the north 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.

- 7.1.3. 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 granted permission on a site, which is not an agricultural holding. Residential use is 'Open for Consideration' in accordance with Council policy for residential development in rural areas.
- 7.1.4. 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 Edmondstown and Ballyboden to the north. The appellants contend that Rockbrook is a settlement, but this is not reflected in the Development Plan zoning – notwithstanding that there is a substantial amount of ribbon development lining roads in the immediate vicinity. 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'. It should be noted 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 a sub-divided house site in a rural area.
- 7.1.5. 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 site in a rural area of the county, under strong pressure for development arising from proximity to metropolitan Dublin. The development plan does allow for sub-division of existing houses within the rural area – subject to meeting Development Plan standards.



## 7.2. Layout & Design

- 7.2.1. The site slopes steeply downhill from east to west, and is on or about the 140m contour. There are no listed views or prospects in the immediate vicinity. It forms part of the mature landscaped garden curtilage of a large, part-three-storey, house to the north. There is a high hedge on the roadside boundary which serves to substantially screen the site from view. It will be necessary to excavate into the site to form two platforms for the construction of the house.
- 7.2.2. The house is a large one, at 322m<sup>2</sup>. The maximum height of the proposed house is 9.7m, as measured from the western (stream) side. It is stated to be the same height as the existing house to the north. I would, however, note that the existing house is set-back considerably further from the road. From the east (road) side – the house will appear as a dormer structure – with a ridgeline height of 6.7m. The proposed house is considerably closer to Tibbradden Road than the existing house to the north – at 3.5m approximately. There is no necessity for a structure of this height – particularly as the roof space contains a void – above ground floor accommodation only. The proposed house would be unduly prominent, when viewed from Tibbradden Road. Permission should be refused for this reason.
- 7.2.3. Parking spaces for approximately five cars are to be provided. There is ample space within such a large site for private amenity space. No landscaping plan has been submitted with the application, so it is unclear just which trees on this heavily-landscaped site are to be removed to facilitate the development, and which are to be retained. Obviously, the removal of all trees would render the new house considerably more prominent in the landscape. A tree-survey and landscaping plan would help in assessing the impact of any house on the landscape – particularly where the footprint of the house itself is large, where considerable excavation will be required, where space is required for the effluent treatment plant & surface water soakway, recessed entrance and parking area.

## 7.3. Access & Traffic

- 7.3.1. The site is located on the inside of a right-angled bend on Tibbradden Road, at a point where it joins Mutton Lane. There is a single, unbroken white line in the centre of Tibbradden Road at this location – associated with the aforementioned right-angled

bend at the southeastern corner of the site – where Mutton Lane forms a junction with Tibbradden Road. The 50kph speed restriction applies in this area, and there are no public footpaths and there is no public lighting. There is an existing vehicular access serving a house on this site – with severely substandard sightlines. This entrance is to be reconfigured to provide a joint access to the existing house and to the proposed house. The roadside boundary is to be set back to improve sight visibility at the access.

- 7.3.2. The required sight lines from a 2m setback are 45m in either direction (within the 50kph speed restriction zone). To achieve these sightlines, it would be necessary to set back the roadside boundary wall and associated hedge. Drawings submitted refer only to setting back the hedge. Setting back the wall (or lowering its height) is a much larger job. Obviously, this could be accomplished. The Roads Department of SDCC were satisfied that appropriate sight distance could be achieved at a reconfigured entrance. The entrance as it exists is substandard – as sight visibility for exiting vehicles is not available.
- 7.3.3. The claim that, as the applicants are already residing in the house to the north, there will be no additional traffic generated, is not a realistic one. 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 to Rockbrook. 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.
- 7.3.4. The junction of Tibbradden Road with the R116 Regional Road at Rockbrook is substandard in terms of alignment. Additional traffic turning movements which would be generated by this development would constitute a traffic hazard.

#### 7.4. **Water**

##### 7.4.1. Water Supply

It is proposed to take a supply from a 100mm public watermain located within Mutton Lane to the south of the site. Irish Water had no objection to the proposed arrangements.

#### 7.4.2. Foul Waste

It is proposed to dispose of foul waste to a 'Biocycle' effluent treatment plant to be located to the south of the house, with discharge to a 15m<sup>2</sup> polishing filter. Trial hole depth at 2.1m did not encounter groundwater. The Environmental Health Officer for SDCC, was satisfied with the arrangements put forward in relation to disposal of domestic effluent.

#### 7.4.3. Surface Water

The site is located on a hill, and is not subject to flooding. A fast-flowing stream runs along the western boundary of the site – located at a considerably lower level than the proposed house. Surface water from paved areas and roofs is to be discharged to a 21m<sup>2</sup> soakway with a depth of 1.2m. Unsolicited additional information was received from the applicant on 23<sup>rd</sup> May 2018, containing surface water drainage calculations. SDCC had no objection to the proposed arrangements.

### 7.5. **Other Issues**

#### 7.5.1. Appropriate Assessment

The application was accompanied by Natura 2000 Screening Report – dated April 2018. This is a Stage 1 screening process, arrived at the conclusion that there would be no negative impact on any European site.

The site is neither within nor immediately abutting any European site. The closest such are-

- Wicklow Mountains SAC (Site code 002122) – some 2.5km to the south of the site.
- Wicklow Mountains SPA (Site code 004040) – some 2.5km to the south of the site.
- Glenasmole Valley SAC (Site code 001209) – some 4.8km to the west-southwest of the site.

Using the 'Source-pathway-receptor' model, it is clear that there is no link between the site and any European site: the stream which passes the site on the western boundary being downhill of the relative European sites – flowing into the Dodder River downstream of the Glenasmole Valley SAC. 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.

#### 7.5.2. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

#### 7.5.3. Financial Contribution

As the decision of SDCC was to refuse planning permission, the issue of a development contribution was not addressed. If the Board is minded to grant planning permission for this development, it would be appropriate to attach a condition requiring payment of a contribution in accordance with the Development Contribution Scheme for South Dublin County.

#### 7.5.4. 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'. I note that SDCC has recently refused planning permission for a house on this site for the same applicants. The appellants 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.

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

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

#### 7.5.6. 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.

#### 7.5.7. Green Infrastructure

The sixth reason for refusal refers to impact of the development on an emerging green infrastructure network for the county – partly focussed on waterways. There is no reference to this on Development Plan maps for the county, and it would not be reasonable to refuse planning permission on such grounds.

### 8.0 **Recommendation**

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

### 9.0 **Reasons and Considerations**

1. The proposed development, of a second family house on this site, 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 circumstances where they currently reside in a large house on a family site. The proposed development would be contrary to the proper planning and sustainable development of the area.
2. Tibbradden Road, from which the development takes access, lacks public footpaths and public lighting. The alignment, width and heavily-trafficked nature of the road is not conducive to walking or cycling. The proposed development would require the use of a private car to access the most basic of services. 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.

3. The junction of Tibbradden Road with the R116 Regional Road at Rockbrook 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.
4. The section of the house closest to Tibbradden Road, would be unduly prominent when viewed from that road, arising from proximity of the building to the roadside boundary and the height of the structure at this location. The proposed development would, therefore, detract from the rural appearance and be detrimental to, the visual amenities of this area, which is zoned 'RU' – "To protect and improve rural amenity and to provide for the development of agriculture". Arising from loss of mature trees on site, and the necessity to excavate into the site to facilitate house construction and drainage works, there is a concern that the proposed development would detract from the character of the River Dodder and Glenasmole Valley Landscape Character Area, as set down in the "Landscape Character Assessment for South Dublin County – 2015".

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**Michael Dillon,  
Planning Inspectorate.**

**2<sup>nd</sup> October 2018.**