



An
Bord
Pleanála

Inspector's Report ABP-302429-18

Development	5 bedroom, split level bungalow.
Location	Stoney Lane, Rathcoole, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18A/0218
Applicant(s)	Conor Fyans
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Conor Fyans
Observer(s)	None
Date of Site Inspection	9 th October, 2018
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located c. 0.8km to the south west of the centre of the village of Rathcoole in south county Dublin. The site is located outside of the development boundary for Rathcoole and is accessed off the Stoney Road that runs to the south west in the direction of Kilkeel. The site forms part of a larger landholding in this location part of which has been developed for a bungalow which is in the ownership of the brother of the current applicant. This existing dwelling is located to the east of the appeal site and access to this existing dwelling is via an access road that runs along the northern side of the appeal site. In addition to the appeal site, the application documentation indicates that the applicant owns lands to the north.
- 1.2. The site slopes down relatively steeply from east to west with a fall of c.7.5 metres across the site. The southern boundary of the site has a mature tree and hedgerow boundary. The overall landholding has a frontage of c.140 metres onto Stoney Road and this boundary also has mature tree and hedgerow planting.
- 1.3. It is stated that the site is in the ownership of the father of the applicant. The stated area of the site is 0.431 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the development of a 5 bedroom split level dwelling on the site with a proposed floor area of c. 230 sq. metres. Access to the site is proposed to be via the existing access off the public road and the driveway that accesses the existing dwelling to the east. The FFL of the dwelling is proposed to vary between 146.6 and 147.5 metres OD.
- 2.2. The dwelling is proposed to be connected to a waste water treatment system to be located to the north west of the dwelling. Water supply is proposed to be via a bored well on site and surface water to be disposed of to a soakaway on site.
- 2.3. The application is for outline permission so there is a limited amount of detail provided with regard to design and layout of the development.

- 2.4. The applicant is stated to be living in the US and wishes to return to Ireland to develop a house on family lands. The adjoining house to the east is occupied by the applicant's brother.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to refuse Permission for 12 no. reasons that can be summarised as follows:

1. That the proposed development would materially contravene the objectives of the development plan relating to rural housing and no reasoning for the setting aside of policy H20 that restricts the spread of rural housing in areas zoned RU.
2. That the proposed development would be contrary to national policy as set out in the National Planning Framework and to the policies in the county development plan regarding the consolidation of development into existing settlements.
3. That the proposed development would represent the proliferation of one off housing and would be contrary to the provisions of the sustainable achievement of the Regional Settlement Strategy for the Greater Dublin Area.
4. That the proposed development would lead to the creation of ribbon development and proliferation of entrances thereby endangering public safety by reason of a traffic hazard and being contrary to the Sustainable Rural Housing Guidelines.
5. That the site is located in the Athgoe and Saggart Hills landscape area which is identified as an area with a high landscape value meaning that the landscape is highly vulnerable and that development would have a significant change in landscape character and should be avoided if possible. The proposed development would have a negative impact on the landscape value and sensitivity of the area and would therefore materially contravene Policy HCL 7 of the development plan which seeks to preserve and enhance the

character of landscapes particularly those that have a medium to high sensitivity or landscape value.

6. That by virtue of the amount of cut and fill required, the proposed development would materially contravene Policies H16 and H27 of the county development plan, would be contrary to the zoning objective for the area and contrary to the proper planning and sustainable development of the area.
7. That the proposed development would set an undesirable precedent for other similar forms of development.
8. That insufficient details have been submitted to enable an assessment of the landscape and visual impacts of the proposed development. In particular landscaping plan, tree report and survey are required and in their absence compliance with section 11.5.5(i) and Policy G2 of the Plan have not been demonstrated.
9. Insufficient details have been submitted to enable an assessment of the impact of the proposed development on the surrounding rural area.
10. Insufficient information presented to enable screening for appropriate assessment to be undertaken.
11. Insufficient details submitted with regard to proposed water and surface water systems and compliance with the Greater Dublin Code of Practice for Drainage Works has not been demonstrated.
12. Insufficient details submitted with regard to the proposed waste water treatment system. A revised / up to date Site Suitability Assessment is required along with details of the proposed waste water treatment system.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer notes the planning history of the site including the granting of permission for two dwellings on the site in 2007 and alterations to the

eastern dwelling, constructed in 2011. Notes site zoning and plan policy for rural housing in Objective RU zoned lands. Notes the proximity of the site to the western orbital route and the recommendation for refusal of permission from the Roads Section. Significant concern with regard to the impact of a dwelling on the landscape character and visual amenities of the area is expressed. Concerns of the EHO including the absence of a site suitability assessment are also noted. Refusal of permission consistent with the Notification of Decision which issued is recommended.

3.2.2. Other Technical Reports

Roads – Notes the proximity of the site to the alignment of the West Dublin Orbital Road South that is indicated in the 2016-2022 County development Plan. Refusal recommended on the basis that the application is premature pending the determination of the detailed design and route corridor of this road.

Environmental Health Officer – Notes that there is reference to a 2007 Site Characterisation report but that this report is not submitted. States that a new site assessment is required and further information is recommended. Report also states that the proposal would constitute undesirable ribbon development on a substandard rural road network.

Water Services – Note that there are no on site percolation results for soakaways and that no percolation test results submitted. Further information relating to percolation tests and soakaways is recommended.

Parks Department – Report notes that lack of clarity regarding planting proposals and what is to be retained. Recommends the submission of a comprehensive tree report.

3.3. Third Party Observations

None.

4.0 Planning History

The following planning history is referenced on file:

SD07A/0942 – Permission granted by the Planning Authority for the construction of two dwellings comprising one on the site immediately to the east of the current appeal site and a second single storey dwelling on what is the current appeal site. The permitted dwellings were 5 bedroom with floor areas of approximately 370 sq. metres. The dwelling to the east of the appeal site that is constructed was permitted under this reference.

SD07A/0942/EP – Permission granted for an extension of the appropriate period of this permission. This extension was granted in December 2012.

SD11A/0272 – Permission granted for a change of design of one of the permitted dwellings under Ref. SD07A/0942.

5.0 Policy Context

5.1. Development Plan

The site is zoned Objective RU under the provisions of the South Dublin County Development Plan, 2016-2022. This objective *'seeks to protect and improve rural amenity and to provide for the development of agriculture'*.

Section 2.5.0 of the plan relates to rural housing. The following policies are noted:

Policy H20 states that it is the policy of the council to restrict the spread of dwellings in the rural RU zone and to focus such housing into existing settlements.

Policy H21 relates to rural housing need criteria and states that 'persons who are an intrinsic part of the rural community or persons working full time or part time in rural areas as described in section 3.2.3 of the Sustainable Rural Housing Guidelines shall be favourably considered in relation to rural housing.

Policy H22 states that it is the policy of the council within areas designated with zoning objective RU new or replacement dwellings will only be permitted in exceptional circumstances.

Policy H27 states that it is council policy to ensure that any new residential development in rural or high amenity areas including houses and extensions are designed and sited to minimise visual impact on the character and setting of the surrounding landscape.

Section 11.3.4 of the Plan states that a comprehensive site analysis and character appraisal should be submitted with all applications for houses and extensions in rural areas.

5.2. Natural Heritage Designations

The site is not located in or close to any European site. The closest site is the Glennasmole Valley SAC site which is located c.8 km to the east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the site layout was based on the construction of two houses. The first party was not in a position financially or due to work commitments to undertake the construction of the second dwelling as originally permitted and the permission only expired in March of this year.
- The current proposal is 30 percent smaller than the originally permitted dwelling and the design has been revised to account for changes to development plan policy.
- That the applicant meets the criteria set out at Policy H22 of the development plan. It should be noted that under the previous application ref. SD07A/0942, the applicant met the local need criteria set out in the plan.

- That the original family lands in this area included a rectangular piece to the north of the appeal site. These lands were the subject of a CPO by the former Dublin County Council for the purposes of constructing the Western Dublin Outer Orbital route.
- The site would have a road frontage of c.116 onto the proposed orbital route. The landscape features along the southern and roadside frontages will be retained.
- Proposed that the dwelling would have three levels, 146.6, 147.05 and 147.5. These levels are relative the FFL of the existing dwelling at 152.5.
- Rathcoole Village is located close to the site and is a source of amenities including schools and retail.
- The site is located within 350 metres of an existing residential estate and lands zoned for residential development.
- That the site is located on lands zoned Objective RU and residential is open for consideration on such lands that are below the 350 metre contour.
- The applicant is an engineer who grew up in Rathcoole and went to school in the village. He worked in the Dublin area before emigrating to work with overseas development organisations. He currently lives and works in New York.
- That the applicant's family have very long standing family connections with Rathcoole and the local area.
- That by virtue of being born and growing up in Rathcoole and working in the local area before emigrating, together with the family connections with the local area, the applicant meets the criteria set out in the Sustainable Rural Housing Guidelines for Planning Authorities.
- That the report on file appears to accept the local connections to the area, however this is not clearly acknowledged as this would be contrary to the overall decision.

- That the applicant has urgent family need to construct a house to accommodate his family.
- That Policy H20 cited by the Planning Authority does not prohibit residential development but refers to a restriction on such development.
- That the Planning Report submitted with the application demonstrated compliance with housing policies H16, 21, 22, 26, and 27.
- The proposed development does not comprise ribbon development as defined in the Sustainable Rural Housing Guidelines and would not lead to the creation of an undesirable precedent.
- That the development complies with Policy H21 and H22 and the rural housing needs criteria. Reason for refusal No.2 is not therefore applicable.
- That National Policy Objective 15 of the NPF does not prohibit housing in rural areas. It requires the management of the growth of areas that are under strong urban influence and a functional or social requirement to reside in these areas. The first party has a social need to live in this rural area.
- Given the capacity for additional housing in Rathcoole as set out in the Core Strategy the proposed development would not impact on the targets set out in the Plan.
- That the reason for refusal relating to non-compliance with the Regional Planning Guidelines (reason No.3) makes no reference to the fact that 5.2.2 of the guidelines makes a differentiation between urban and rural generated housing. The applicant is a rural housing need.
- That the issues of location, design, access, drainage and site suitability were assessed at the time of the previous permissions and could be met in the future.
- Reason No.4 relating to ribbon development is not appropriate as the development does not constitute ribbon development as per the Sustainable Residential Development Guidelines.
- That at the time of the previous grant of permission on the site the Western Dublin orbital Route was a long term road proposal. The development was

not considered premature at that time. Similarly, the residential development on the far side of the route was not considered premature.

- In the case of the 2007 application, the Roads Report states that the entrance to the site is far enough from the proposed roundabout on the orbital route that a traffic hazard would not occur. The current roads report does not state that the proposed access would be a traffic hazard.
- That the CPO placed on the family lands to the north has not been implemented or compensation paid. It is not reasonable that these lands remain in limbo for this period of time.
- That reference in the planners report to a loss of hedgerow on the roadside boundary are not correct. The hedge would be trimmed to ensure compliance with Condition 5 of Ref. SD07A/0942.
- That the design of the proposed dwelling will respect the tradition of the area and it is submitted that the landscape of the site has the capacity to accommodate a single storey dwelling.
- That the application was accompanied by a scaled drawing showing the extent of cut and fill proposed. The floor levels will fall with the topography. The extent of cut and fill required is significantly less than that previously permitted.
- With regard to Reasons Nos. 8-12, the application was validated by the Planning Authority and all relevant information was available. Further information could have been requested on these issues and in any event art.36 of the Regulations states that outline permission means permission in principle and the insufficient details referred to by the Planning Authority are issues that would normally be submitted at approval stage.
- Regarding surface water drainage, the Planning Authority had compliance submissions from Ref. SD07/0942 stating that the design of the surface water soakaways met the relevant BS.
- In respect of reason No.12 the Planning Authority got compliance submissions regarding the operation of the waste water treatment system. The same ground conditions will apply to the appeal site.

6.2. Planning Authority Response

The Planning Authority have responded to state that the issues raised in the appeal have been addressed in the report of the Planning Officer and that they do not have any further comments to make.

7.0 Assessment

7.1. Introduction

- 7.1.1. Firstly, it should be noted that the Notification of Decision issued by the Planning Authority includes three reasons for refusal that make reference to material contravention of the South Dublin County Development Plan. These reasons for refusal are Nos. 1, 5 and 6 relating to rural housing policy on lands zoned Objective RU, the contravention of Policy HCL7 of the Plan relating to the preservation and enhancement of the character of landscapes particularly those that have a medium to high sensitivity or landscape value and contravention of Policies H16 and H27 relating to site topography, use of cut and fill and engineered solutions and compliance with the rural housing design guide. The provisions of s.37(2) of the Act are therefore applicable in this instance and the circumstances under which the Board can overturn these refusal reasons are limited by the criteria set out at s.37(2)(b). These refusal reasons are discussed in more detail in the relevant sections below.
- 7.1.2. I note the general comment made by the first party appellant that a number of the reasons for refusal are on the basis of a lack of information and that these issues could have been addressed by way of further information. On a number of these issues the first party has a valid complaint. The following assessment focusses on the substantive issues relevant to the proposed development.

7.1.3. The following are considered to be the main issues in the assessment of the appeal:

- Principle of Development and Compliance with Rural Housing Policy
- Site Access and Roads Issues
- Site Servicing and Drainage Issues,
- Design and Visual Impact,
- Other Issues

7.2. Principle of Development and Compliance with Rural Housing Policy

7.2.1. The appeal site is located on lands that are zoned Objective RU under the provisions of the South Dublin County Development Plan. Section 2.5.0 of the plan states that it is the policy of the council to restrict the spread of dwellings into rural and high amenity areas and Policy H20 states this and that it is policy to focus such housing into existing settlements. It is noted that Reason for Refusal No.1 which makes reference to material contravention of the development plan, refers to this policy although it is not completely clear from the wording of the reason that it is this specific policy which the proposed development is considered to be in material contravention of.

7.2.2. The first party makes the point that the wording of section 2.5.1 does not preclude the granting of permission in areas zoned Objective RU such as the appeal site, but rather that it is the policy to restrict such development. Similarly, the wording of Policy H22 of the plan is that new or replacement dwellings in areas zoned Objective RU '*will only be permitted in exceptional circumstances*'. I would agree that this is the case and consider that while housing in such areas is to be limited it is not a blanket prohibition. Rather, proposals for development must accord with other relevant provisions of the plan, in particular relating to visual impact and considerations of rural housing need. With regard to the material contravention issue and the provisions of s.37(2)(b) of the Act, it would appear to me that there are other plan provisions that could be considered, notably Policy H21 which states that persons who are an intrinsic part of the rural community or persons working full time

or part time in rural areas as described in section 3.2.3 of the Sustainable Rural Housing Guidelines shall be favourably considered in relation to rural housing.

- 7.2.3. The first party contends that they are in accordance with development plan policy relating to rural housing need on the basis that the family have connections with the Rathcoole area that date back c.400 years. It is stated that the applicant's family used to own a pub that was located at the village end of the local road from which the site is accessed and that this road is known locally as Fyans Lane. It is also noted that the applicant was accepted as having a rural housing need in the case of Ref. SD07/0942 and that the decision of the Planning Authority and the planning officers report does not dispute this interpretation.
- 7.2.4. My reading of the personal circumstances of the applicant relative to the criteria set out in Policy H21 and the Sustainable Rural Housing Guidelines is as follows. The applicant was born and raised in Rathcoole and went to school in the area, however the family home in which he grew up is stated to be in the village and not in a rural area. The applicant's father owns the appeal site, however it is not clear how long these lands have been in family ownership and it would appear that the family did not reside in a rural location when growing up. In terms of work connections with the local area, the appeal sets out how the first party is an engineer who worked in Dublin, including in the local area, prior to emigrating. He is currently working in New York and wishes to relocate back to Ireland, however no details of his work plans when he returns to Ireland have been provided and he does not appear to have a work related need to reside in a rural area. The applicant has not in my opinion provided any details of connections with rural activities that would demonstrate how he is an intrinsic part of the rural community. In stating this, I note the definition contained at paragraph 3.2.3 of the Rural Housing Guidelines which states that '*such persons will normally have spent substantial periods of their lives living in rural areas as members of the established rural community.....Returning emigrants who lived substantial parts of their lives in rural areas and who now wish to return to reside near other family members, to work locally, to care for elderly family members, or to retire should also be accommodated*'. I do not see that the applicant in this case meets this definition given that there is no evidence that he grew up or has ever lived in a rural area outside of Rathcoole village. On the basis of the information presented therefore I do not consider that the applicant has clear family or work

connections with the local rural area that demonstrate compliance with Policy H21 of the development plan.

- 7.2.5. It is therefore my opinion that permission should be refused on the basis that the applicant has not clearly established a rural housing need to reside in this location and that compliance with Policy H21 of the Plan has not been demonstrated. In view of this conclusion, it is also my opinion that the proposed development would be contrary to Policy H20 of the development plan which seeks to restrict the spread of dwellings in the rural area and to focus such housing into settlements.
- 7.2.6. With regard to the wording of reason for refusal No.1 and the reference to material contravention of the development plan policies relating to rural housing and specifically Policy H20, as set out above it is my opinion that the applicant has not demonstrated compliance with the rural housing requirements set out in section 2.5.0 of the plan and that the proposed development would therefore contravene Policy H20 of the Plan which seeks to restrict the spread of dwellings into rural areas including those zoned Objective RU. I do not consider that any of the criteria as set out at s.37(b)(2) are applicable in this instance. Specifically, I do not consider that the proposed development is of strategic or national importance, I do not consider that there are conflicting objectives in the plan regarding rural housing and the proposed development does not accord with other rural housing policies in addition to Policy H20, the proposal is not in my opinion consistent with the provisions of the Regional Planning Guidelines, the Sustainable Rural Housing Guidelines or other ministerial guidance and there is no indication of a pattern of decisions of the Planning Authority that would contradict the refusal of permission in this instance. For these reasons I consider that the provisions of s.37(2)(b) are not applicable in this instance and that the Board is therefore restricted from granting permission in this instance.

7.3. Site Access and Roads Issues

- 7.3.1. The access to the site is proposed to be via the existing entrance onto Stoney lane to the west of the site and that this entrance would be shared with the existing dwelling on the site. The existing entrance opens onto a local road where the 60km/hr speed limit applies and sight lines from the existing entrance are in my

opinion such that they are currently acceptable. There is a potential issue with sightlines arising from the proposed construction of the Western Dublin Orbital Route that is proposed to connect the N4 and the N7 with a leg running to the south of the N7 between the N81 and the N7 and providing a bypass of Rathcoole and Saggart. This route would pass close to or through the appeal site. On the basis of the Site Layout Plan submitted it would appear that the existing site entrance could be within c.80 metres of the proposed roundabout on the orbital route and could therefore be impacted by the roundabout location.

- 7.3.2. The current situation with regard to the orbital route is that it is identified in the South Dublin County Development Plan as a medium to long term road objective (being greater than 6 years). No detailed design work on the route has been undertaken and the project is not referenced on either the TII website list of projects or in the National Development Plan. The Western Dublin Orbital Route running from the N7 to the N4 is identified as a preferred option in the TII Corridor Study of February 2017, however there is no specific mention of the southern section of the route in the TII report. The project is therefore clearly a long term one. With regard to the impact on the appeal site, as detailed by the first party in their appeal, I note the fact that, family lands located to the north of the current appeal site were acquired by way of CPO a significant number of years ago for the purposes of building an outer orbital or relief road. I also note and generally agree with the first party that it is unsatisfactory that their lands in this area have been left in limbo for such a long period of time pending clarity on roads proposals for the area.
- 7.3.3. The current facts, however, are that an outer orbital road in this general location is an objective set out in the current South Dublin County Development Plan, that the original road proposals and CPO are significantly out of date and there is no certainty that any future road development would follow the alignment as set out on the Site Layout Plan submitted with the application. The approximate alignment indicated on the development plan maps runs directly through the appeal site and pending a detailed design for the route I would agree with the assessment of the Roads Section of the Council that an application that would set the principle of development of the site would be premature pending a detailed design and the adoption of a detailed route corridor.

- 7.3.4. I note that none of the reasons for refusal set out in the Notification of Decision issued make specific reference to the issue of potential prematurity pending the development of the scheme for the Western Dublin Orbital Route despite refusal on this basis being recommended by the Roads Department. For the reasons set out above I consider that permission should be refused on this basis.
- 7.3.5. The uncertainty regarding the alignment of the proposed orbital route and its proximity to the existing entrance would also have implications for the future safe use of the existing access. Pending clarity of the alignment of the orbital route it is considered that the proposal would be premature on the basis of uncertainty regarding the proximity to the junction with the orbital route.
- 7.3.6. I note the comments of the first party, the wording of reason for refusal No.4 and the contents of the roads Department report with regard to ribbon development. On this issue I would be in agreement with the first party that the proposed development would not result in the creation of ribbon development in this location as defined in the Sustainable Rural Housing Guidelines.

7.4. Site Servicing and Drainage Issues,

- 7.4.1. As noted by the Water Services Section of the council, there are no percolation test results submitted with the application and details of the surface water soakaway have not been provided. The covering letter submitted with the application makes reference to the fact that effluent generated on site would be disposed by way of an EPS on site AQUAmax treatment system and that this system would be the subject of a maintenance contract. With regard to the site assessment results, the report states that an assessment was submitted as part of application ref. SD07/0942 and that this was accepted by the Council. It is submitted that site conditions would not have changed significantly in the interim period.
- 7.4.2. While I would accept that site conditions are unlikely to have significantly altered since the granting of permission in 2007, the fact is that permission on the site has expired and no site suitability assessment or site percolation information has been submitted with the application. Notwithstanding the outline nature of the application it is my opinion that an up to date site suitability assessment is required in order for a full assessment of the principle of the development of a dwelling on this site to be

undertaken. Similarly given the proposed disposal of surface water to on site soakaways, it is my opinion that percolation tests in the area proposed for the installation of soakaways are required.

- 7.4.3. For the above reasons it is considered that permission should be refused on the basis of the absence of information relating to on site drainage and site characteristics and the resulting uncertainty regarding the suitability of the site.

7.5. Design and Visual Impact,

- 7.5.1. Reasons for Refusal Nos. 5 – 9 inclusive as attached to the Notification of Decision to refuse Permission relate to issues of visual impact and the impact of the proposed development on the landscape. It is specifically noted that Reasons No.5 (compliance with policy HCL7) and Reason No.6 (extent of cut and fill and compliance with the rural housing design guide) both make reference to material contravention of the development plan. The provisions of s.37 of the Act are therefore applicable in this instance relating to these reasons for refusal and associated issues.
- 7.5.2. I note that reasons for refusal includes a lack of detail to enable the assessment of the likely visual and landscape impacts of the proposal and the impact on the surrounding rural landscape (Reasons Nos 8 and 9). Details stated by the decision of the Planning Authority to be required include a landscape Masterplan to include tree survey, tree constraints and tree protection plan, and photographs, photomontages, cross sections, elevations and floor plans as well as a comprehensive design statement. It is, however, my opinion that this level of information is excessive particularly given the outline nature of the application and that significant details have been provided by the first party that enables an assessment of the acceptability in principle of the development in visual terms to be made. In particular, the applicant has clarified that existing site boundaries to the south and west fronting the Stoney Road shall not be altered. Details of the finished floor levels of the proposed dwelling and the extent of cut and fill proposed has also been submitted. On the basis of the information presented I do not consider that reasons for refusal Nos. 8 and 9 relating to insufficient level of detail to enable an

assessment of visual impact and site landscaping to be undertaken are valid reasons for refusal of permission.

- 7.5.3. Policy H27 states that it is council policy to ensure that any new residential development in rural or high amenity areas including houses and extensions are designed and sited to minimise visual impact on the character and setting of the surrounding landscape. Policy HCL27 seeks to preserve and enhance the character of the county's landscape areas and particularly areas that have a medium to high landscape value or medium to high landscape sensitivity. The appeal site is located in the Athgoe and Saggart Hills landscape character area, which is identified in the landscape character assessment which informed the development plan as having a high landscape character and sensitivity and a landscape capacity which is negligible to low meaning that the key characteristics of the landscape are highly vulnerable to development. The appeal site is steeply contoured with a fall of approximately 10 metres from the highest part of the site to the adjacent road level and the site has the potential to be visible from locations to the west and north west. Against this, the site is well screened on its southern boundary and roadside boundary. Local views of a single storey development on the site would, therefore, be limited and it is considered that the staggered design approach proposed is generally appropriate albeit that the size and length of the floorplan is excessive.
- 7.5.4. Permission has however been refused by the Planning Authority on the basis of the material contravention of development plan policies relating to the impact on landscapes with a high landscape sensitivity and / or value (Policy HCL7) and policies relating to site topography (Policy H16) and house design (Policy H27). The appeal site is clearly a visually sensitive location given its landscape designation and site contours and, on the basis of the information presented, I do not consider that it is possible to clearly conclude that the proposed development would not be contrary to the policies cited in reasons for Refusal Nos. 5 and 6. I do not consider that any of the criteria set out in s.37(2)(b) of the Act are applicable in the circumstances of the proposed development. Specifically, I do not consider that the proposed development is of strategic or national importance, I do not consider that there are conflicting objectives in the plan regarding development in areas of high landscape sensitivity, the proposal is not in my opinion consistent with the provisions of the Regional Planning Guidelines, the Sustainable Rural Housing Guidelines or other

ministerial guidance and there is no indication of a pattern of decisions of the Planning Authority that would contradict the refusal of permission in this instance. For these reasons I consider that the provisions of s.37(2)(b) are not applicable in this instance and that the Board is therefore restricted from granting permission in this instance.

7.6. Other Issues

- 7.6.1. I note reason for refusal No. 10 attached to the Notification of Decision to Refuse Permission states that permission should be refused on the basis of inadequate information to enable a screening assessment to be undertaken. As noted above, I consider it appropriate that a site suitability assessment report should have been submitted with the application and subject to such information being available it is considered that the nature of the proposed development and its relationship to designated sites are such that a screening assessment could be undertaken.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, 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.

7.8. EIA

- 7.8.1. Having regard to the small scale of the proposed development comprising a single dwelling and the separation of the site from ecologically sensitive receptors including watercourses 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 a preliminary examination and a screening determination is not required.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

1. Having regard to the location of the site within Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current South Dublin County Development Plan, 2016-2022, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site is located in the Athgoe and Saggart Hills landscape character area in the current Development Plan for the area where the landscape character and sensitivity is classified as high and the landscape capacity is negligible to low and, on the basis of the information presented, the Board is not satisfied that the proposed development would not have a significant impact on landscape character in this location. The proposed development would therefore be contrary to Policy HCL7 of the development plan relating to the preservation and enhancement of the character of the county's landscapes in areas of high landscape value and / or sensitivity and would be contrary to the proper planning and sustainable development of the area.

3. The proposed development by virtue of the steeply sloped nature of the site and the proposed use of cut and fill to accommodate the design into the site would be contrary to Policy H16 and Policy H27 of the development plan relating to development on steep or varying topography sites and rural house design. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.
4. The proposed development is located on the alignment of the Western Dublin Orbital Route (South) as indicated on Map No.8 of the South Dublin County Development Plan, 2016-2022 and which is indicated at Table 6.6 of the Plan to be a medium to long term road objective of the council. Development of the kind proposed would be premature pending the determination by the local authority of a detailed alignment and design for this route.
5. Having regard to the lack of a Site Suitability Assessment report or an assessment of the capacity of the site to accommodate storm water generated by the development, the Board is not satisfied, on the basis of the information available, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

Stephen Kay
Planning Inspector

18th October 2018