



An  
Bord  
Pleanála

## Inspector's Report ABP-303113-18

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<b>Development</b>	Demolition of existing single storey dwelling and construction of 2 no detached dormer style dwellings and all associated site works.
<b>Location</b>	Lands at Stockhole, Cloghran, Swords, Co. Dublin, K67 D6N4.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F18A/0516
<b>Applicant(s)</b>	Jennifer Roche and Pierce Dowling
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To Refuse Permission
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Jennifer Roche and Pierce Dowling
<b>Observer(s)</b>	DAA
<b>Date of Site Inspection</b>	09.02.2019
<b>Inspector</b>	Rachel Kenny

## 1.0 Site Location and Description

The subject site is located on the western end of Baskin Lane. To the south of the site, is a single storey bungalow. There are further detached dwellings located to the east and north west of the site. The property to the south is identified as the existing family home. The site comprises an existing single storey dwelling and derelict tin roof structure. The general character of the area is rural with a number of single storey and dormer dwellings located along Baskin Lane, increasing in number closer to Kinsealy end of Baskin Lane.

## 2.0 Proposed Development

The proposed development comprises the demolition of an existing tin roofed building of approx. 24 square metres and the construction of two no. 4 bedroom detached dwellings. Dwelling J has a with a gross floor area of 220.8 sq. metres on a 0.125 ha site and Dwelling P has a gross floor area of 217.5 sq. metres on a 0.125 ha site Both units also have proposed garages of 48.3 square metres. The development also provides for connection to the mains foul drainage network (a combined sewer on Baskin Lane). Vehicular access is via a shared driveway onto Baskin Lane. The two dwellings have a maximum height of 7.10 metres. The principle materials are render finish, zinc cladding and brick, with a slate roof.

## 3.0 Planning Authority Decision

### Decision

To Refuse Permission for 2 no. reasons:

1 *Having regard to the sites location within the RC zoning objective, provision of housing is restricted to applicants with a defined rural housing need set out as*

- *Persons currently living and who have lived continuously for the past ten years or have previously lived for a minimum of ten continuous years, or,*
- *Persons working continuously for the past ten years within areas of the County currently zoned rural. These areas are zoned Rural Village (RV), Rural Cluster (RC), Rural (RU), Greenbelt (GB), or High Amenity (HA).*

*The applicants have not submitted any substantive evidence to demonstrate compliance with these requirements. Furthermore, the applicants already have a house on the site and have not demonstrated a need for two additional house, therefore cannot be considered to have a rural generated housing need. As such to grant planning permission would materially contravene Objective RF20 of the Fingal Development Plan 2017-2023 regarding rural housing need in rural clusters.*

2 *The proposed development does not achieve the required sightlines of 90m in either direction onto the busy Baskin Lane and from the submitted plans cannot achieve these standards without the consent to undertake works in lands outside of the applicant's control. The proposal, which would intensify use of a vehicular access onto a busy rural road would not provide for adequate sightlines and would represent a traffic hazard.*

## **Planning Authority Reports**

### **Planning Report (01.11.2018)**

- Having regard to the documents submitted by the applicants, it is considered that neither applicant has demonstrated compliance with Objective RF20. Furthermore no information was supplied as to which house is for which applicant.
- The area planner notes that the provision of housing within a rural cluster is for the purposes of facilitating those with a genuine rural generated housing need. The applicants have indicated they already own an existing house in the cluster.
- The applicants have indicated their intention to sell their existing house as a “commercial operation” for which it does not have the benefit of planning permission. The application must therefore be considered to be speculative
- In conclusion, the planner considered that the application should be refused as the applicants have not generated a rural demonstrated housing need or submitted substantive documentation to demonstrate compliance with the requirements of Objective RF20.

- It is considered that the requirements of DAA could be covered by condition.
- Overall the design, scale and bulk of the proposed development is considered acceptable subject to revisions to the garages which could be addressed by way of condition.
- It is not considered that the proposed development would negatively impact on the visual or residential amenities of the area. Issues of overbearing impacts, overshadowing and overlooking will not arise.
- Refusal recommended on lack of demonstration of compliance with Objective RF20 and based on shortfall in sightlines as outlined in Transportation Sections report.

### **Other Technical Reports**

**Water Services Planning Section:** Additional information would be required.

**Transportation Planning Section:** Additional information would be required.

**Parks and Green Infrastructure Dept.:** Additional information would be required.

**Irish Water:** Additional information would be required.

### **Prescribed Bodies**

- DAA.

The proposed development is located within the Outer Noise Zone and Objective DA07 applies. Noise environment to be taken into account, appropriate noise levels to be provide along with noise mitigation measures.

### **Third Party Observations**

- No observations.

## **4.0 Planning History**

### **Planning Authority Reference F95A/0421**

Front porch and septic tank. Permission **Granted**. Applicant – Pierce Dowling

### **Planning Authority Reference F97A/1112**

3 bungalows. Outline Permission **Refused** . Applicant: Jennifer Roche

**Planning Authority Reference F00A/0505**

Extension with double garage with pitched roof and bio cycle to rear of existing cottage. Permission **Granted** . Applicants Pierce and Jennifer Dowling.

**Planning Authority Reference F05A/0608**

9-bedroom dormer style guest house with 12 car parking spaces, using existing vehicular entrance, an effluent treatment system and associated site work. Outline Permission **Refused**. Applicant – Pierce Dowling

## 5.0 Policy Context

### Development Plan

The operative Development Plan is the Fingal County Development Plan 2017-2023. The majority of the site is zoned 'RC' with the objective *"To provide for small scale infill development serving local needs while maintaining the rural nature of the cluster."* The northernmost portion of the site is within the zoning objective 'GB: *Protect and provide for a Greenbelt*'. The site is located within the Outer Airport Noise Zone.

The rural area of Fingal is identified as an area under 'Strong Urban Influence' and residential development is subject to compliance with the rural settlement strategy set out in the plan.

### Objective RF19

Encourage consolidation of rural housing within existing rural clusters which will cater for rural generated housing demand, as an alternative to housing in the open countryside, and encourage the reuse of existing buildings within the cluster over any new development.

## **Rural Cluster Settlement Strategy.**

The rural clusters serve as areas where members of the rural community can live as an alternative to housing in the open countryside. The settlement strategy identifies opportunities for infill development and encourages appropriate levels of consolidation allowing families living in such clusters to build a needed new home by subdividing new large sites, where drainage requirements allow. This meets the County's rural generated housing need and avoids encroachment into viable agricultural lands. Settlement within the Rural Clusters will be open to members of the Fingal rural community who demonstrate a rural generated housing need.

For the purposes of the settlement strategy for Rural Clusters, rural generated housing need is defined as either:

- Persons currently living and who have lived continuously for the past ten years or have previously lived for a minimum of ten continuous years, or,
- Persons working continuously for the past ten years within areas of the County currently zoned rural. These areas are zoned Rural Village (RV), Rural Cluster (RC), Rural (RU), Greenbelt (GB), or High Amenity (HA).

### **Objective RF20**

Permit only persons with rural generated housing need, as defined within this section of the Plan, planning permission for a house within a Rural Cluster where the site size is a minimum of 0.2 ha for on site treatment systems, and conforms to the drainage and design standards required by the Council, and 0.125 ha where connecting to a public sewer.

**Objectives RF21, 22,23, 24, 25** are also relevant. These relate to the character of clusters, entrance designs, home based economic activity, design, siting and access requirements for rural dwellings in clusters .

**Objective DA07.** Sets controls around development within the Outer Noise Zone for Dublin Airport.

### **Sustainable Rural Housing Development Guidelines**

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with

proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

### **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

### **Natural Heritage Designations**

The closest European sites to the site are Baldoyle Bay SAC (Site Code 000199) and Baldoyle Bay SPA (Site Code 004016).

## **6.0 The Appeal**

### **Grounds of Appeal**

- Appellants have lived at the site for 24 years and have close ties to the area. Due to marital breakdown they argue that they now have separate rural generated housing need and do not materially contravene Objective RF20 of the Development Plan regarding rural clusters.
- Minor modifications to the existing dwelling have been made to allow for separate living but these are temporary and intended only until a long-term housing solution is found.
- The proposal is to sell the existing dwelling to fund the construction of two new individual dwellings for each spouse in the rear garden. It is suggested that the sale of the existing house will "provide housing for others in this current climate".
- The appellants received planning permission under F00A/0505 to extend the dwelling including the provision of extra bedrooms and have operated a small b&b since. The appellants state that this was not a material change of use and

that this is what is referred to as a commercial operation in the supplementary application forms.

- With regard to refusal reason no. 2, the appellants argue that the proposal as originally submitted is substantially in accordance with DMURS which requires a sight distance of 65 m in each direction.
- However, if the Board deems it necessary the appellant can achieve revised sightlines of 90m and attached letters of consent from both landowners to the east and revised drawings indicating the provision of 90m sightlines.

### 6.1. **Planning Authority Response**

- It remains the opinion of the Planning Authority that insufficient information has been submitted which substantiates claims made regarding compliance with the rural settlement strategy.
- The PA reiterates its view that the provision of housing within the RC zoning does not facilitate speculative house sales and that in pre-planning discussions it was made clear that any houses and the continued habitation of the existing house applied for needed to be in the names of persons who qualify under the requirements of objective RF20.
- Regarding sightlines, the Transportation Dept. has reviewed the information submitted on appeal and are satisfied that 90m sightlines can be achieved. If the PA is to determine the acceptability of 60m sightlines a speed survey would need to be undertaken and submitted.
- Request that the decision of the Planning Authority is upheld by the Board but that if the appeal is successful a S48 condition should be attached.

### 6.2. **Observations**

- DAA.

DAA issued a standard letter noting the sites location within the airports outer noise control zone and have included a series of recommendations should planning permission be forthcoming around noise insulation and other appropriate noise mitigation measures



## 7.0 Assessment

### Introduction

The proposed development is for the construction of two detached dwellings located on a site to the north of Baskin Lane at the western end of the lane. The design, scale and siting of the dwellings are generally considered appropriate and I am satisfied that the development would have no material adverse impacts on the visual amenities of the area or on the residential amenities of adjacent properties. The proposed access to the dwelling is via a shared driveway serving an existing dwelling located to the south of the site. The access onto Baskin Lane is established however the proposal is for the access to be relocated to the east with the demolition of an existing building of 24m<sup>2</sup> and the provision of a new entrance to serve three dwellings with sightlines of 60m in each direction.

The main issues in this appeal, are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment and EIA Screening also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy.
- Sightlines and access
- Appropriate Assessment.
- EIA Screening.

### Compliance with Rural Housing Policy

The operative Development Plan for the area is the Fingal County Development Plan 2017-2023 which sets out zoning objectives and specific local objectives relevant to the site. The zoning maps clearly indicate that the site is subject to both the provisions of zoning objective 'RC' and GB and objective no. RF20.

The Rural Cluster Settlement Strategy of the plan is relevant and states inter alia that:

*“Settlement within the Rural Clusters will be open to members of the Fingal rural community who demonstrate a rural generated housing need.*

*For the purposes of the settlement strategy for Rural Clusters, rural generated housing need is defined as either:*

- *Persons currently living and who have lived continuously for the past ten years or have previously lived for a minimum of ten continuous years, or,*
- *Persons working continuously for the past ten years within areas of the County currently zoned rural. These areas are zoned Rural Village (RV), Rural Cluster (RC), Rural (RU), Greenbelt (GB), or High Amenity (HA).*

The planning authority have concluded that the applicants “have not submitted any substantive evidence to demonstrate compliance with these requirements around rural generated housing need. Furthermore, the Planning Authority have referred to the fact that the appellants already have a house on the site and have not demonstrated a need for two additional houses, and that therefore they cannot be considered to have a rural generated housing need. The conclusion reached was that to grant planning permission would materially contravene Objective RF20 of the Development Plan regarding rural housing need in rural clusters

The central argument of the appeal is that due to marital breakdown the appellants have generated the need for two separate dwellings within the cluster and plan to sell the existing dwelling to fund the new dwellings.

It is my opinion the policy for rural clusters is clear. I am of the opinion that the appellants have not satisfactorily demonstrated a rural generated housing need as per the requirements of the development plan and that the proposed development of two additional dwellings at this location where they already own an existing would be in material contravention of Objective RF20 of the Development Plan. The appellants have indicated that they intend to sell the existing house as a “commercial operation” to fund the construction of two additional dwellings. The RC zoning objective does not support the speculative sale of existing dwellings whilst concurrently seeking to establish additional housing need in the cluster. Having reviewed all the documentation submitted including that within the appeal and the supplementary application forms the appellants have not demonstrated any demonstrable argument

or evidence of compliance with the provisions of the development plan or national policy to justify overturning the decision of the Planning Authority

In conclusion, I am satisfied that the appellants have not demonstrated compliance with the policy requirements with this proposal to construct two additional rural dwellings as the applicants have already have a dwelling at this location.

Furthermore, having regard to the policy guidance set out in the NPF and the Sustainable Rural Housing Development Guidelines, the applicants do not have a demonstrable social or economic need for two additional dwellings at the site. The development is therefore considered contrary to the proper planning and sustainable development of the area.

### **Sightlines and Access.**

The Planning authorities second reason for refusal relates to a lack of compliance with 90 m sightlines and considers that the sightlines of 60m as proposed would not meet the requirements of DN-GEO-03060 published by TII. They note that in order to achieve 90m sightlines works would be required to neighbouring properties to the east. The transportation dept. had considered that the matter could form part of a request for further information but that as it currently stood 60m sightlines constituted a traffic hazed

On appeal the appellants have submitted revised drawings which achieve 90 sightlines in both directions and have also submitted written consent from the two adjoining properties to the east to allow works to be carried out to their respective boundaries.

It is my opinion that the revised sightlines can now be achieved based on the information submitted on appeal and I consider that the achievement of the revised sightlines satisfactorily addresses the second reason for refusal.

### **Appropriate Assessment**

The nearest Designated sites are Baldoyle Bay SAC (Site Code 000199) and Baldoyle Bay SPA (Site Code 004016) to the east. The Sluice River which drains into Baldoyle Bay is located c. 200 metres to the North of the proposed development.

It is considered that there would be no direct impacts on either European site and no loss of habitat or fragmentation arising as a result of the development.

In terms of indirect effects the source pathway receptor model must be considered. It is considered that such indirect effects are unlikely due to the scale of the development and that fact that it will be connected to the existing municipal network and includes measures to address the treatment of surface water.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European Sites 000199 and 004016, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and the submission of a NIS) is not, therefore, required.

### **EIA Screening**

Having regard to nature of the development comprising two single rural houses connected to the public mains and the absence of any significant environmental sensitivity in the vicinity/the absence of any connectivity to any sensitive location, 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 and a screening determination is not required.

## **8.0 Recommendation**

- 8.1. It is recommended that permission be refused permission for the reason set out below.

## **9.0 Reasons and Considerations**

Having regard to the site's location within the RC zoning objective, provision of housing is restricted to applicants with a defined rural housing need set out as

- Persons currently living and who have lived continuously for the past ten years or have previously lived for a minimum of ten continuous years, or,

- Persons working continuously for the past ten years within areas of the County currently zoned rural. These areas are zoned Rural Village (RV), Rural Cluster (RC), Rural (RU), Greenbelt (GB), or High Amenity (HA).

The applicants have not submitted any substantive evidence to demonstrate compliance with these requirements. Furthermore, the applicants already have a dwelling on the site and have not demonstrated a need for two additional dwellings, and therefore cannot be considered to have a rural generated housing need. The proposed development would therefore materially contravene Objective RF20 of the Fingal Development Plan 2017-2023 regarding rural housing need in rural cluster. Furthermore, the subject site is located in an area that is under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of housing based on the core consideration of demonstrable economic or social need to live in a rural area. It is considered, therefore that the appellants do not come within the scope of the housing need criteria as set out in the Development Plan and in national policy for two additional houses at this location. The proposed development would, therefore, be contrary to the policies set out in the National Planning Framework and the Development Plan and would be contrary to the proper planning and sustainable development of the area.

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**Rachel Kenny**

**Director of Planning**

**9th February 2019**