



An
Bord
Pleanála

Inspector's Report

ABP-304170-19

Development	Construction of 2 no. detached dwelling houses together with all associated site works.
Location	Pluckhimin Garristown, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F19A/0062
Applicant	Evan and Barry Duignam.
Type of Application	Planning Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party
Appellant	Evan and Barry Duignam.
Observer(s)	None.
Date of Site Inspection	19 th July, 2019.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site is located in the Townland of Pluckhimin, on the southern side of a local road (Note: L-1005) that lies c0.7km to the west of its junction with the R130 and Chapel Lane alongside the northern outskirts of the settlement of Garristown, in north County Dublin.
- 1.2. The site has a stated 0.4046ha area and it has an irregular rectangular shape. Its roadside boundary consists of a mature native hedgerow with several mature trees behind which the site is similarly bound by native hedgerows inside which the main site area consists of agricultural grass land which has a relatively flat overall topography. The site is bound on its east and west by one-off detached dwelling houses.
- 1.3. The surrounding area has an agricultural character though containing several one-off detached dwellings that are linearly located along the public road network. There are also several farmsteads as well as a few other uses in the wider vicinity.

2.0 Proposed Development

- 2.1. By way of this application planning permission is sought for the construction of 2 no. one and a half-storey 3-bedroom dwelling houses with access to the public road network via a shared access, on-site car parking, the provision of in-curtilage proprietary waste water treatment systems with associated percolation areas together with all associated site works and services.
- 2.2. According to the Planning Application Form the gross floor area of works is 450m²; it is proposed to connect to an existing public water supply; and, to deal with surface water drainage by way of the provision of soakpits.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse** planning permission for the proposed development for the following single stated reason:

“The subject site is within the ‘HA’ zoning objective under the Fingal Development Plan, 2017-2023 the objective of which is to ‘protect and enhance high amenity areas’ in the Fingal Development Plan 2017-2023. Table RF01 of the Fingal Development Plan 2017-2023 states that the maximum number of houses to be granted planning permission per existing house in an area zoned ‘HA’ is one plus an additional one house for exceptional health reasons. Objectives RF32 and Table RF02 of the Fingal Development Plan 2017-2023 relate to the eligibility for planning permission in an areas zoned ‘HA’ which is confined to those actively involved in the family farm or those who have demonstrated exceptional health circumstances. The applicants have not demonstrated that they are involved in a family farm nor have they demonstrated that they have exceptional health circumstances. Having regard to the above, it is considered that permitting the proposed development would materially contravene Objective RF32 of the Fingal Development Plan 2017-2023 and the ‘HA’ zoning objective of the site and that the proposed development would be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers report is the basis of the Planning Authority’s decision.

3.2.2. Other Technical Reports

- **Planning & Strategic Infrastructure Department/Transportation Planning Section:** No objection.
- **Water Services Department:** No objection.

3.3. Prescribed Bodies

3.3.1. Irish Water: No objection.

3.4. Third Party Observations

3.4.1. None received.

4.0 Planning History

4.1. Appeal Site

P.A. Reg. Ref. No. 18A/0627: Planning permission was **refused** for a similar development described as consisting of the construction of 2 no. one and a half-storey dwelling, a new shared site entrance, within curtilage parking, proprietary waste water treatment systems with percolation areas together with all necessary works to facilitate the proposed development. The reason for refusal was based on the proposed development being contrary to the 'HA' zoning objective of the subject site.

5.0 Policy Context

5.1. National Policy Provisions

- **Sustainable Rural Housing Development Guidelines:** These guidelines require a distinction to be made between '*Urban Generated*' and '*Rural Generated*' housing need. Several 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.
- **National Planning Framework – Project Ireland 2040:** 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. This will also be subject to siting and design considerations.

5.2. Local Planning Policy Provisions

- 5.2.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'HA' which has an aim to: "*protect and improve high amenity areas*". The stated vision for such lands is to "*protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored*". In land zoned 'HA' residential development is permissible subject to demonstrating compliance with the Development Plans Rural Settlement Strategy.

5.3. Natural Heritage Designations

- 5.3.1. None in 10km radius with the nearest Natura 2000 site located c14.4km to the north east, i.e. Special Protection Areas: River Nanny Estuary & Shore SPA (Site Code: 004158)

5.4. EIA Screening

- 5.4.1. The proposed development comprises a 'project' for the purposes of environmental impact assessment and falls within a class of development set out in Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended). Having regard to the development sought under this application, I consider that the modest nature and scale of such a development will give rise to a very limited environmental impact and the site itself is significantly removed from any sensitive sites, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development if permitted. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required in this case.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:
- The site is adjacent to the family home.
 - No anticipated negative impacts on Natura 2000 sites would arise.
 - Reference is made to national and local planning policy provisions.
 - The proposed alterations to the roadside boundaries would significantly enhance road safety for neighbouring properties.
 - The site is an infill development site and the proposed development would allow for the consolidation of a rural cluster.
 - It is not considered that the sites 'HA' land use zoning best reflects the amenity value of this site. The site is described as a concealed infill site that is privately

owned with an existing entrance that fails to serve as a safe access and egress onto the public road network.

- The proposed development is the optimal use of the subject site as it would provide for orderly and consolidated development.
- The appellants have a social need to live at this location.
- It is requested that the Planning Authority's decision be overturned.

6.2. Planning Authority Response

6.2.1. The Planning Authority response can be summarised as follows:

- Residential use is permitted in principle on 'HA' zoned land subject to compliance with the rural settlement strategy set out under the Development Plan.
- Reference is made to Table RF02 of the Development Plan, which indicates that those eligible for this type of development must be actively involved in the family farm or must demonstrate exceptional health grounds. This has not been demonstrated.
- It remains the opinion of the Planning Authority that permission should be refused for the proposed development for the reasons set out in their Planning Officers report.
- The Board is requested to uphold its decision.
- In the event of the Board granting permission for the proposed development it is requested that a Section 48 financial contribution be imposed by way of condition.

7.0 Assessment

7.1. Introduction

7.1.1. Having regard to the nature of the proposed development sought under this application, relevant planning policy provisions and the issues raised on file, I consider the key planning issues relating to the assessment of this appeal case can be considered under the following broad headings:

- Principle of the Proposed Development
- Other Issues Arising

7.1.2. The matter of 'Appropriate Assessment' also needs to be assessed.

7.2. Principle of the Proposed Development

7.2.1. The appeal site is in an area defined as being under strong urban influence as defined in the Sustainable Rural Housing Guidelines for Planning Authority's, 2005, and under the National Planning Framework, 2018. This is due to several locational factors including but not limited to its proximity to a number of large urban areas, in particular Dublin City but also the strong urban structure present in Ashbourne, Swords, Balbriggan, Drogheda and the like alongside its close proximity to the N2 corridor which lies c3.3km to the west of the site as the bird would fly.

7.2.2. Section 5.2 of the Development Plan sets out the rural settlement strategy. It states that the purpose of this strategy is to guide the location of residential development within the rural area of Fingal in a manner that recognises that the area is under strong urban influence.

7.2.3. It provides for rural-generated housing need within the rural area and directs urban-generated housing away from the open countryside to promote a sustainable pattern for rural settlement, which orders settlement within the villages, clusters and the open countryside and encourages the reuse and adaptation of the existing building stock in preference to new build. It also requires that applicants who seek to build one-off dwelling houses on rural zoned land within the county, such as the site and its surrounding land which is subject to the 'HA' rural land use zoning, demonstrate compliance with the rural settlement strategy set out in its Development Plan.

7.2.4. The zoning objective for 'HA' – High Amenity zoned land as set out in the Development Plan is to "*protect and enhance high amenity areas*".

7.2.5. Further, the Development Plan sets out the vision for such high amenity zoned land as follows: to "*protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored*".

7.2.6. The site also forms part of a larger parcel of rural land that is highly sensitive and vulnerable to change because it forms part of the Green Infrastructure within the plan's administrative area.

- 7.2.7. The Planning Authority's local planning provision approach for the subject site and the landscape setting it forms part of I consider is consistent with national planning provisions for this type of development, in particular, under the Sustainable Rural Housing Guidelines for Planning Authority's, 2005, and under the National Planning Framework, 2018, previously referred to above.
- 7.2.8. The Development Plan defines 'rural generated housing' need as a housing need of people who have long standing existing and immediate family ties, or occupations which are functionally related to the rural areas of the County, and are specifically defined as: "*members of farming families who are actively involved in the family farm which is located within rural Fingal as defined in Objective RF38; Persons who have close family ties to the Fingal rural community as defined in Table RF03 paragraph (i); Persons who have been in long term employment which is related to, and supportive of, the rural community as defined in Table RF03 paragraph (ii) and where the employment is dependent on the residence of the person within the rural community; Persons who are a member of a rural-located family, who are considered because of exceptional and demonstrated health reasons to have a need to reside beside their family home in the rural area as defined in Table RF03 paragraph (iii) Persons who are 'a bona fide' applicant, as defined in Table RF03 paragraph (iv), and who have a demonstrated commitment to set up a rural-related business and who may not already live in the area, nor have family connections there, or be engaged in particular employment or business classified with the local needs criteria*".
- 7.2.9. The appellants seek to construct the proposed dwelling houses on a small landholding of grassland that is adjacent to the family home and are seeking the proposed two dwelling houses under the '*close family ties*' criteria of the rural settlement strategy.
- 7.2.10. Table RF03 requires in such applications that the applicant demonstrate several factors and in the case of '*HA*' zoned land Chapter 5 of the Development Plan restricts such applications to only those members of families actively involved in farming within the rural area.
- 7.2.11. Both applicants have failed to demonstrate that they are actively involved in farming within the rural area.
- 7.2.12. I further note from the submitted documentation submitted with this application that there is no substantive evidence to support either of the applicants are employed or

actively as well as significantly involved in any rural generated employment within this particular locality or otherwise.

- 7.2.13. There is no provision within the rural settlement strategy for such applications on 'HA' zoned land for those who seek to care for a family member with an exceptional health circumstance or the need for a dwelling house based simply on close family ties. Neither appellants have demonstrated that they have an exceptional health requirement that would require the provision of a dwelling house at this particular location.
- 7.2.14. I am therefore not satisfied that either applicant has demonstrated a genuine rural housing need by way of the documentation submitted with this application as opposed to a desire for a 'one-off' dwelling house at this location.
- 7.2.15. I am also of the view that the further proliferation of linear one-off dwelling houses on high amenity zoned would add to the cumulative erosion of the intrinsic rural character of areas like this where there has been a significant number of such developments constructed in a linear pattern with a proliferation of individual access points onto the local road. The latter has also resulted in a significant loss of native roadside hedgerows and trees. In this case the proposed development would rather than reinforce a cluster of similar developments but would in my view result in a ribbon of such development along this stretch of the L-1005. I am cognisant that Objective RF55 of the Development in areas subject to the high amenity land use zoning indicates that there is a presumption against developments that would contribute to or intensify this type of development.
- 7.2.16. Based on the above considerations I am not satisfied that the applicants in this case have demonstrated compliance with the Development Plan's rural settlement strategy. I therefore consider that the proposed development, if permitted, would conflict with Objective RF39 of the Development Plan; and, the proposed development would further diminish the visual amenities of what is high amenity zoned landscape which the Development Plan seeks to protect its intrinsic amenity attributes from inappropriate and unnecessary development. It is also a landscape whose intrinsic rural qualities at this locality have been diminished and eroded by such developments as well as is highly vulnerable to change. This in my view is substantive reasons in itself for this application to be refused and it is the basis to conclude that the proposed

development is contrary to the proper planning and sustainable development of the area.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to modest nature of the proposed development, its location at considerable distance from any European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.4. **Other Matters Arising**

7.4.1. **Design:**

I consider that the architectural design resolution put forward to be a high quality contemporary one that also has had regard to traditional vernacular architecture and has had regard to the site's context and landscape setting.

7.4.2. **Planning Authority's Interdepartmental Reports:**

Should the Board be minded to grant permission for the proposed development I advise that consideration is given to the safeguards set out in these reports. These I consider are reasonable and would result in a qualitative improvement to the proposed development.

7.4.3. **Development Contributions:**

Fingal County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). The applicable scheme is titled the 'Fingal County Council Development Contribution Scheme, 2016 to 2020'. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 **Recommendation**

- 8.1. I recommend that permission for the proposed development be **refused**.

9.0 Reasons and Considerations

1. Having regard to the site's location within the 'HA' zoning objective as provided for under the Fingal Development Plan, 2017-2013, provision of housing is restricted to applicants with a defined rural housing need set out as those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances. In addition, Objective RF39 of the said plan states that the Planning Authority will permit new rural dwellings in areas which have zoning objective HA on suitable sites where the applicant meets the criteria set out in Table RF03. I consider this requirement reasonable having regard to the high sensitivity and vulnerability of high amenity zoned lands to change.

The applicants have not submitted any substantive evidence to demonstrate compliance with these requirements.

Furthermore, the applicants have not demonstrated that they have a rural generated housing need based on being employed on a family run farm.

The proposed development would therefore materially contravene Objective RF39 of the Fingal Development Plan, 2017-2023, regarding housing need at this location.

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 as applicants do not come within the scope of the housing need criteria as set out in the Development Plan and in national policy for 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.

2. The site of the proposed development is located in an area designated as an Area of High Amenity in the Fingal Development Plan, 2017-2023. The zoning objective for the area, as expressed in the Development Plan, is to protect and improve high amenity areas. This objective is considered reasonable. The proposed

development, which is not related to the amenity potential of the area or the use of the area for agriculture would contravene materially that development objective indicated in the said Development Plan for the use primarily of the area for the purpose of protecting and improving high amenity areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young,
Planning Inspector
24th July, 2019.