



An  
Bord  
Pleanála

## Inspector's Report ABP-304355-19.

---

<b>Development</b>	Construction of a domestic dwelling together with all associated site works and services.
<b>Location</b>	Collinstown, Lusk, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F19A/0068.
<b>Applicants</b>	Patrice & John Keegan.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refused.
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Patrice & John Keegan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> July, 2019.
<b>Inspector</b>	Patricia-Marie Young

# Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision .....	3
3.1. Decision.....	3
3.2. Planning Authority Reports.....	4
3.3. Prescribed Bodies.....	4
3.4. Third Party Observations.....	5
4.0 Planning History.....	5
5.0 Policy and Context.....	5
5.1. National Planning Provisions.....	5
5.2. Local Planning Provisions.....	5
5.3. Natural Heritage Designations.....	6
6.0 The Appeal.....	7
6.1. Grounds of Appeal.....	7
6.2. Planning Authority Response .....	7
6.3. Observations .....	8
7.0 Assessment.....	8
8.0 Recommendation.....	13
9.0 Reasons and Considerations .....	13

## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.42ha is located in the Townland of Collinstown, in Lusk, north County Dublin. It lies on the western side of the heavily trafficked, meandering and undulating horizontal alignment Collinstown Road (R127) c0.6km to the north of its intersection with the Skerries Road and c0.7km to the south of its intersection with Kennedy's Corner where the posted speed limit of 80kmph applies.
- 1.2. The site has rectangular shape with a stated width of c61.52m at its narrowest point and a depth of c67m. It forms part of a larger agricultural field with its western and southern boundaries not demarcated. The remaining boundaries consist of mixed native hedgerows that are bound by restricted in depth grass margins along the roadside boundary with the R127. Its roadside boundary does not contain an access onto the R127.
- 1.3. The surrounding area has a mixed agricultural character that is somewhat diluted by linear residential one-off dwellings and linear strips of the same. It also contains some level of mixed land uses.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a storey and a half dwelling house (Gross Floor Area: 197m<sup>2</sup>) with vehicular entrance onto a public road, a detached domestic garage (Gross Floor Area: 56m<sup>2</sup>), a waste water treatment system together with all associated site works and services. According to the planning application form a new connection to the public water supply is proposed.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse** retention permission on the basis of their Planning Officer's report. The stated reasons read:

*"1. The subject site is within the 'RU' zoning objective under the Fingal Development Plan, 2017 – 2023 the objective of which is to 'protect and promote in a balanced way, the development of agriculture and rural-related enterprise,*

*biodiversity, the rural landscape, and the built and cultural heritage'. Residential development is only permitted on suitable sites where the applicant has established a genuine need to live in the rural area, subject to specific criteria as expressed in Chapter 5 of the Development Plan and particularly Table RF03. The applicants are seeking permission for a new dwelling in a rural location under the 'close family ties' category in accordance with Table RF03 (i) of the Rural Settlement Strategy in the Fingal Development Plan 2017-2023. Under this category, there is a requirement that there is a family home in the vicinity of the application site. However, the family home which was located approximately 400 metres to the north of the subject site was sold in 2017. As the family home is not owned by the applicants family there is therefore no family home on the land-holding/within the vicinity. The proposed development does not meet the requirements of the Fingal Development Plan 2017 – 2023 and would therefore contravene materially Objective RF39 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.*

2. *The proposed vehicular access directly on to a very busy and highly trafficked section of the R127 Regional Road would be contrary to Objective DMS126 of the Fingal Development Plan 2017-2023 which seeks to restrict new accesses directly off Regional Roads."*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The final Planning Officer's report is the basis of the Planning Authority's decision.

### **3.2.2. Other Technical Reports**

**Transportation Section:** Additional information sought.

**Water Services:** 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. The Appeal Site

**P.A. Reg. Ref. No. F18A/0614:** The applicants submitted a planning application for a similar development to that sought under this current application. This was refused permission for similar reasons to those given by the Planning Authority for the current application (See: Planning History Envelope attached to file).

## 5.0 Policy and Context

### 5.1. National Planning Provisions

- National Planning Frameworks, 2018.
- Sustainable Rural Housing Guidelines, 2005.

### 5.2. Local Planning Provisions

- 5.2.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'RU' which has an aim to: *“protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage”*.
- 5.2.2. This Development Plan defines 'rural generated housing' need as housing needs 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".*

5.2.3. Objective RF39 states that the Planning Authority will “*permit new rural dwellings in areas which have zoning objectives RU, or GB, on suitable sites where the applicant meets the criteria set out in Table RF03*”. It also indicates that in cases for dwelling houses within the rural area that the applicant must have a clearly demonstrated need to live in the rural area to ensure the functioning of the business and it sets out that people who have a genuine rural-generated housing need will be considered for planning permission for a house in those parts of the open countryside which have zoning objective RU.

5.2.4. Objective PM50 states that the Planning Authority will seek to “*ensure that new dwellings in the rural area are sensitively sited and designed and demonstrate consistency with the immediate Landscape Character Type and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design*”.

### **5.3. Natural Heritage Designations**

- The site is located c4.2km to the north of Special Protection Areas: Rogerstown Estuary SPA (Site Code: 004015).
- The site is located c4.8km to the north of Special Area of Conservation: Rogerstown Estuary SAC (Site Code: 000208).
- The site is located c5.0km to the south west of Special Protection Areas: Skerries Islands SPA (Site Code: 004122).

### **5.4. Environmental Impact Assessment/Screening**

5.4.1. Having regard to the nature and scale of the residential development sought under this application, the significant separation distance from designated sites, the lack of any hydrological connection or otherwise to these sites, there is no real likelihood of

significant effects on the environment arising from the proposed development. I consider that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The grounds of appeal can be summarised as follows:

- The applicant complies with the requirements to build at this location.
- The special family circumstances are referenced.
- The proposed development, if permitted, would not establish an undesirable precedent for any future similar proposal in the area as it is a similar situation to where the 7-year occupancy clause condition does not apply if the home must be sold because of bank repossession.
- The Planning Authority deemed the house design to be acceptable and no objection was raised on the matters of water and drainage infrastructure.
- The access can be relocated north within the site.
- The family farm has extensive road frontage adjacent to the site.
- The applicant has the consent of her father to close an existing field access at the top of the road where the road alignment is poor.
- Objective DMS 126 is not a blanket prohibition on new accesses onto the Regional Road but allows accesses in certain circumstances.
- The Board is sought to overturn the decision of the Planning Authority.

### **6.2. Planning Authority's Response**

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

- It is requested that the Board uphold its decision.
- If the Board permits the proposed development, it is requested that a Section 48 financial contribution be imposed by way of a condition.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. I consider the key planning issues relating to the assessment of this appeal case can be considered under the following broad headings:

- Principle of Development
- Road Safety
- Other Issues Arising

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

### 7.2. Principle of Development

7.2.1. The appeal site is located 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 a number of 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 Swords, Malahide, Balbriggan and the like alongside its close proximity to the M1 corridor which is easily accessible via the R127, Blakes Cross and the R132 which provides connection to Junction 4 of the M1 c9km to the south of the site.

7.2.2. Section 5.2 of the Development Plan sets out the rural settlement strategy. It indicates 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. It therefore 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 as well as encourages the reuse and adaptation of the existing building stock in preference to new build.

7.2.3. 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 'RU' rural land use zoning to demonstrate compliance with the rural settlement strategy set out in its Development Plan.



- 7.2.4. I note that under the 'RU' land use zoning the objective is to "*protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage*". I also note that this particular landscape setting also forms part of landscape designed as being part of a "*Highly Sensitive Landscape*". Thus, it is highly vulnerable to change; inappropriate development; and, its capacity to positively absorb further development is limited. This landscape area also forms part of the Green Infrastructure within the plan's administrative area.
- 7.2.5. The Development Plan approach as set out above 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.
- 7.2.6. The Development Plan defines 'rural generated housing' need as housing needs 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*".
- 7.2.7. The appellant seeks to construct the proposed dwelling house on her family's landholding and is therefore seeking a dwelling house under the criteria of having 'close family ties' criteria of the rural settlement strategy.

- 7.2.8. Table RF03 requires in such applications that the applicant demonstrate a number of factors which includes, in this case, that they are a close member of the family of the owners of the family home and that the family home identified on the application or within the locality of the family home for at least 15years. The applicant can not demonstrate compliance with RF03 because family home in the vicinity of the site has been sold and is not in the ownership of a close family member nor could it be considered to be factually the family home any longer. As such the tangible connection with what was the family home up until 2017 has now been severed and in turn it can not be argued that the applicant has a need to reside close to their family home.
- 7.2.9. Based on this consideration the applicant has not demonstrated compliance with the rural settlement strategy for this type of development at this locality and to permit such a development in the absence of such a demonstration would conflict with both the Development Plans rural settlement strategy as set out but also Objective RF39 of that plan as well as would establish an adverse planning precedent for other similar applications. Objective RF39 indicates that the Planning Authority will only permit new rural dwellings on land subject to the RU land use where the applicant demonstrates compliance with the criteria set out in Table RF03 of the Development Plan.
- 7.2.10. I am also not convinced that the 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 house at this location.
- 7.2.11. Considering that the appeal site forms part of a parcel of land designated under the current Development Plan as a 'highly sensitive landscape' and land that is under strong urban influence where such developments are only allowed in limited circumstances I am not satisfied that the documentation submitted demonstrates that they have a genuine rural generated housing need for such a development on what is an area of highly sensitive rural landscape area under strong pressure for similar developments. The proposed development, if permitted, in my view would further add to the cumulative erosion of its rural character attributes by way of such linear one-off residential developments. In turn this would diminish the visual amenity and character of this rural area. Outside of providing a dwelling unit to live in the proposed development would add little in the way of tangible and interconnectivity with the functioning of this rural locality.

7.2.12. I am further cognisant that the Development Plan under the 'RU' land use zoning indicates under Objective RF20 that the Planning Authority will "permit only persons with a rural-generated housing need". I am not satisfied based on the information provided that this has been demonstrated.

7.2.13. Based on the above considerations I am not satisfied that the applicant has demonstrated compliance with the Development Plan's rural settlement strategy and this is substantive reasons in itself for this application to be refused.

### 7.3. Road Safety

7.3.1. This proposal includes a new entrance onto the Collinstown Road which is a regional route and at a point where the maximum posted speed limit applies.

7.3.2. The documentation submitted with this application indicate that it is proposed to set the entrance back 6m from the roadside edge and it indicates that sight lines of 120m can be achieved in both directions. However, of concern these sightlines include land that lies outside of the redline area of the site itself and there is no documentation to substantiate that an easement would be put in place to ensure that should any change in landownership occur to the land on either side in the future that the required visibility splays can be maintained along the entirety of their length in the long-term.

7.3.3. I consider such an assurance appropriate having regard to the nature of this road, its posted speed limit and the significant volumes of traffic it appears to accommodate.

7.3.4. Incidental to this I observed during my inspection of the site and its environs that most of the traffic was travelling at speed limits over and above the posted speed limit. This further adds to my concern that the provision of and the ability of maintaining the minimum required access onto a regional road needs to be fully demonstrated as part of such application at this location.

7.3.5. The documentation submitted with this application and with the appellants appeal submission have not demonstrated this nor have they demonstrated this for the suggested relocation of the entrance to a northerly point on the roadside boundary.

7.3.6. Further the blocking up of an agricultural entrance to offset the provision of an entrance to serve the development sought under this application as suggested in the grounds of appeal does not in my view off-set the traffic and road safety concerns set out above. Moreover, I consider that the agricultural entrance and the residential entrance

generate different levels, types of traffic volume and vehicle types when compared against one another.

- 7.3.7. I am also cognisant that Objective RF57 of the Development Plan states that the Planning Authority will: *“require that the provision of safe access to a new house be designed so that it avoids the need to remove long or significant stretches of roadside hedging and trees. Where this is not possible, an alternative site or access should be identified”*. To permit the proposed development where the provision of a safe new access can be provided would be contrary to this Development Plan objective.
- 7.3.8. I am also further cognisant that Objective DMS126 of the Development Plan states that the Planning Authority will: *“restrict unnecessary new accesses directly off Regional Roads. Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances”* and that Table 12.4 of the Development Plan which sets out the design guidelines for rural dwellings states that *“the applicant must demonstrate that safe vehicular access to and from a proposed house is provided in terms of visibility from a proposed entrance, but also in terms of impact on road traffic on the adjoining public road, through generation of turning and stopping movements by vehicles leaving and entering the proposed site”*. In tandem with Table 12.4 Objective DMS52 states that *“the design and siting of any new house conforms to the principles of Design Guidelines for Rural Dwellings as outlined in Table 12.4”*.
- 7.3.9. To permit the proposed development would in my view result in the provision of a new unnecessary new access onto the R127 at a point where the maximum posted speed limit applies. It would also result in additional traffic movements onto this high speed and heavily trafficked road where the road has an undulating horizontal alignment and where sightlines in either direction cannot be demonstrated to be in the legal control of the applicant to maintain in the long term.
- 7.3.10. In addition, the Development Plan on the matter of road design and road safety states that: *“in the design and/or improvement of roads and in the assessment of planning applications for new development, the safety of all road users, including pedestrians, cyclists and motorists will be a primary consideration”*. As discussed this has not been demonstrated.

7.3.11. Based on the above considerations I concur with the Planning Authority's second reason for refusal.

#### 7.4. **Appropriate Assessment**

7.4.1. 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.

#### 7.5. **Other Matters Arising**

##### 7.5.1. **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. The application site is zoned 'RU' in the Fingal County Development Plan, 2017 to 2023, and in an area of strong urban influence. Under the RU zoning objective, and, in such areas of strong urban influence single house residential developments are only permitted where the applicant can demonstrate compliance with the Rural Settlement Strategy, as set out in the County Development Plan, 2017 to 2023. It is considered that the proposed development does not comply with Development Plan policies in relation to rural housing, in particular, Objectives RF39; RF20; DMS52 and RF57. The proposed development would, therefore, contravene these

Development Plan objectives and, if permitted, would set an undesirable precedent for other future similar development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate onto a Regional Road at a point where the minimum required sightlines cannot be demonstrated as being under the applicants control and where the Regional Road is heavily trafficked alongside where the maximum posted speed limit for a road of this type applies and the road has an undulating horizontal alignment. To permit the proposed access would therefore be contrary to Objective DMS126 of the Fingal County Development Plan, 2017 to 2023, which seeks to restrict new accesses opening directly onto the Regional Road and would be contrary to Objective DMS52 which seeks that such applications demonstrate compliance with the requirements set out under Table 12.4 of the Fingal County Development Plan, 2017 to 2013. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

---

Patricia-Marie Young  
Inspector

24<sup>nd</sup> July, 2019.