



An  
Bord  
Pleanála

## Inspector's Report ABP-306184-19.

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<b>Development</b>	Permission for the retention of house and associated site works, access via existing roadway serving far, permission to reclad existing house and provision of slate roof.
<b>Location</b>	Ballymana Lane, Kiltipper, Tallaght, Dublin 24.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD19A/0298.
<b>Applicant(s)</b>	Aengus & Fiona Cullen.
<b>Type of Application</b>	Retention permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Aengus & Fiona Cullen.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	16/03/2020.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The site is located in the foothills of Dublin Mountains and in a very rural area. Access to the site is via the Kiltipper Road and ultimately, the Ballymana Lane. Ballymana Lane is a narrow public road which has a steep gradient and is quite narrow in places. The Lane serves a small number of residential properties as well farms. There is a climb to the site as the wider area is elevated and the site is located within this elevated landscape. The site slopes significantly from the public road, which lies to the west of the site and offers extensive views towards the east and over the wider rural landscape and into Dublin City.
- 1.2. The site has a stated area of 0.24 Ha and is long and narrow and comprises primarily of the access road to the house and the farmyard. The existing structure on the site, the subject of the retention application, lies between the entrance to the site and the farm buildings which are located further to the south of the building. The farmyard comprises a large slatted unit located further down the hill from the structure and the silage bale storage area lies between the house and the farmyard.
- 1.3. The building the subject of this retention application comprises a small timber structure which is occupied as a dwelling. The house comprises 2 bedrooms with a third potential bedroom used as the farm office / veterinary store. The building has a stated floor area of 96m<sup>2</sup> and there is a fenced off garden area to the north of the structure.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for retention of development, on a site of 0.24ha, located at Ballymana Lane, Kiltipper, Tallaght, Dublin 24. Permission is sought to retain a single storey family farmhouse located on the applicants farm holding, along with all associated site development works. The development will be accessed via an existing roadway serving the existing farm, previously permitted under Ref SD09A/0347. Permission is sought to re clad the existing dwelling with white plastered blockwork and provision of slate roof to same.
- 2.2. The application included a number of supporting documents including as follows;
  - Plans, particulars and completed planning application form

- Planning Report
- Letter from Teagasc
- Landscape Rationale
- Landscape Visual Assessment Report
- Copy of letter from the Department of Agriculture, Food and the Marine providing details of the herd owned by the applicant, dated 13<sup>th</sup> September 2019.
- Details of applicants' connections to the local rural community.
- Site Suitability Assessment and details of Tricel system installed on site.
- Traffic Report

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to refuse planning permission for the proposed development for the following 4 stated reason:

1. Non-compliance with the CDP in terms of Rural Housing and exceptional circumstances to justify an additional house on the landholding given the zoning afforded to the site.
2. Visual impact on the landscape.
3. Intensification of traffic with lead to increased traffic hazard.
4. The development would result in a proliferation of one-off housing in the Dublin Metropolitan Area and would prejudice the achievement of regional settlement strategy policy for the Eastern & Midlands Region.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and

the County Development Plan policies and objectives. The report also includes a section on Appropriate Assessment. This section of the report considers that the applicant should provide information in relation to the screening of the development in relation to potential impacts on nearby SACs and SPAs, including when considered in combination with other recent developments that have taken place on the farm.

The initial Planning Report concludes that the proposed development is not acceptable. Planning Officer recommends that permission be refused for the proposed development, for 4 reasons as detailed above in section 3 of this report. This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

### 3.2.2. Other Technical Reports

**Water Services:** Further information is required in relation to surface water proposals.

**Roads, Transportation & Public Safety:** Refusal is recommended for the following reason:

The general width of the Ballymana Lane and its poor vertical and horizontal alignment is such that two vehicles cannot pass each other safely. An intensification of traffic on this road will lead to increased traffic hazard.

**Parks & Landscape Services / Public Realm:** The section objects to the proposed development based on its adverse effect on landscape character and amenity of the area. The development would detract to an undue degree from the rural character and scenic amenities of the landscape and the lower slopes of the Dublin Mountains.

### 3.2.3. Prescribed Bodies

**An Taisce:** Objects to the proposed development noting that there have been six previous applications for a house or retention of timber chalet on the site, all of which have been emphatically refused by the Council. The change of the log cabin to a house will not

overcome the reasons for refusal and will become more obtrusive in the landscape due to the higher roof which will be necessary due to changing the roof to a slate roof.

### 3.2.4. **Third Party Submissions**

There are no third-party objections/submissions noted on the planning authority file.

## 4.0 **Planning History**

There is a substantial planning history associated with the subject site and the following is considered relevant:

**PA ref. SD09A/0347:** Construction of a farm shed 140m x 18m to include a slatted slurry tank, cattle pen, calving cubicles, silage slab, new access from Ballymana Lane, and site levelling works. Permission was granted and the structure exists.

**PA ref. SD13A/0010:** Permission refused to Aengus Cullen for a detached dormer dwelling (257sq.m.), detached garage, new entrance and driveway, waste treatment system, for 4 reasons.

**PA ref. SD15A/0120:** Permission refused to Aengus Cullen for the retention of timber structure for use as habitable accommodation with septic tank; access to public road shall be via existing roadway serving farm buildings to include completion of existing entrance to public road in accordance with planning granted under Reg Ref SD09A/0347, together with ancillary works. The development was assessed under the policies of the previous development plan and was refused for 3 reasons.

**PA ref. SD16A/0068:** Permission refused by the PA for the retention of timber structure for use as farm office and veterinary store along with family farmhouse accommodation with septic tank. Access to public road will be via existing roadway serving existing farm buildings to include completion of existing entrance to public road in accordance with planning permission granted under Reg. Ref. SD09A/0347, together with ancillary site works. Permission was refused again but for 5 stated reasons.

**ABP ref PL06S.247148 (PA ref SD16A/0199):** Permission refused for the retention of timber structure for use as farm office and veterinary store along with

family farmhouse accommodation with septic tank, access to public road will be via existing roadway serving existing farm buildings to include completion of existing entrance to public road in accordance with the permission granted under planning register reference number SD09A/0347 together with ancillary site works at Ballymana Lane, Kiltipper, Tallaght, Dublin, by the PA for 7 stated reasons. The application was refused on appeal to the Board for the following 3 reasons:

1. The site is located in an area with the zoning objective HA-DM “To protect and enhance the outstanding natural character of the Dublin Mountain Area”, where it is the policy of the planning authority to restrict residential development, and also in an area identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. It is considered that the applicant has presented insufficient evidence to warrant a dwelling house at this rural location within the scope of the exceptional circumstances outlined under Policy H23 Objective 1 as set out in the South Dublin County Development Plan 2016-2022. The development proposed for retention would, therefore, be contrary to the zoning objective for the area and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the elevated location of the development proposed for retention in an area designated as ‘outstanding natural character of the Dublin Mountains Area in the South Dublin County Development Plan 2016-2022, it is considered that the development proposed for retention would be out of character with the surrounding pattern of development, would seriously injure the visual amenities of the area, would interfere with the character of the surrounding landscape, which it is necessary to preserve in accordance with objective HA-DM of the development plan and would set an undesirable precedent for similar development in the area. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the substandard width, and vertical and horizontal alignment of Ballymana Lane, and the restricted sightlines at the entrance to the subject structure, it is considered the development proposed for retention would lead to additional traffic turning movements generated onto a narrow substandard road and would endanger public safety by reason of traffic hazard.

**PA ref: SD16A/0305:** Permission refused to Extend previously permitted agricultural shed SD09A/0347 with new agricultural shed 36m x 18m with slatted tank, cattle pens and calving cubicles, improvement works to front entrance, and associated site works. This application was refused for 4 reasons.

**PA ref: SD17A/0082:** Permission refused for the retention of (1) previously permitted agricultural shed SD09A/0347 that was rotated by 26 degrees on site, constructed on contour level 211m. (2) agricultural feed stores with improvement works to front entrance and all associated site works. The refusal included 8 reasons.

**PA ref. D18A/0038:** Permission refused for the construction of dormer bungalow, foul wastewater treatment system and all associated site works and landscaping. The application was refused for 7 stated reasons and was assessed under the current County Development Plan.

#### **Planning Enforcement:**

**PA ref. S7484:** Section 154 Enforcement Notices served on Sean Cullen, Bernadette Cullen and Aengus Cullen on 06/05/2015 requiring them to remove the timber structure, remove the concrete footpath, drainage, heating, ESB, and re-sow as grass.

#### **Pre-Planning Consultation:**

A pre-planning consultation took place, by way of email, on the 19<sup>th</sup> of June 2019.

#### **Court Proceedings:**

A District Court Order for the development the subject of this appeal was set aside by the judge on the 24<sup>th</sup> of September 2019 in order to allow the current application, and appeal if necessary, and to allow a judicial review if necessary.

## **5.0 Policy and Context**

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

Rural housing:

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. 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. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### **5.2. Sustainable Rural Housing Development Guidelines 2005**

- 5.2.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.
- 5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be



compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

### 5.3. Development Plan

- 5.3.1. The South Dublin County Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site lies within a rural area which has the zoning objective HA-DM afforded to it. The objective of this zoning is ‘to protect and enhance the outstanding natural character of the Dublin Mountains’. In addition, the lands in the wider area have the zoning objective RU afforded to them where it is the stated objective ‘to protect and improve Rural Amenity and to provide for the development of Agriculture’.
- 5.3.2. Chapter 2 of the CDP deals with Housing and Section 2.5.0 deals with Rural Housing where it is the overriding policy, Policy 20 Management of Single Dwellings in Rural Areas ‘to restrict the spread of dwellings in the rural ‘RU’, Dublin Mountain ‘HA-DM’, Liffey Valley ‘HA-LV’ and Dodder Valley ‘HA-DV’ zones and to focus such housing into existing settlements.
- 5.3.3. Rural generated housing is described in the Plan as ‘arises where the applicant is indigenous to the rural area or has close family links to the rural area or who works in a type of employment intrinsic to the rural economy, which requires the applicant to live in the rural area to be close to their rural-based employment’. Policy 21 Rural Housing Policies and Local Need Criteria provides that ‘persons who are an intrinsic part of the rural community or persons working full-time or part-time in rural areas’, shall be favourably considered in relation to rural housing.
- 5.3.4. In terms of the development plan policies and objectives, the following is relevant:
- HOUSING (H) Policy 22 Rural Housing in RU Zone:
    - H22 Objective 1:
  - HOUSING (H) Policy 23 Rural Housing in HA – Dublin Mountains Zone
    - H23 Objective 1:
    - H23 Objective 2:

- Housing (H) Policy 25 Replacement Dwellings in Rural and High Amenity Areas:
  - H25 Objective 1:
- HOUSING (H) Policy 26 Occupancy Condition
- HOUSING (H) Policy 27 Rural House & Extension Design
  - H27 Objective 1:

5.3.5. Chapter 11 of the CDP deals with Implementation and the following sections are considered relevant:

- Section 11.3.0 deals with Land Uses.
  - Section 11.3.4 deals with Rural Housing;
    - (i) Housing Need
    - (ii) Rural Housing Design
    - (iii) Wastewater Treatment
  - Section 11.3.5 deals with Temporary Accommodation
  - Section 11.3.7 deals with Agriculture and Rural Enterprise
- Section 11.5.0 deals with Heritage and Landscape;
  - Section 11.5.5 deals with Landscape and subsection (ii) deals with High Amenity Areas and Sensitive Landscapes and (iv) deals with Sites with Steep or Varying Topography.

#### 5.4. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Glenasmole Valley SAC (Site Code: 001209) located approximately 2km to the south east of the subject site.

The Lugmore Glen pNHA, (Site Code 000211), is located approximately 2.2km to the north west of the site and the River Dodder lies approximately 1.4km to the east.

## 5.5. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a First party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal submits a history of planning applications at the site and seeks to address the reasons for refusal. The issues raised are summarised as follows:

General:

- The bone fides of the applicants as full-time farmers have been accepted.
- The original farmyard and its associated buildings were granted permission in 2010 under reg. ref SD09A/0347.
- The development of a permanent dwelling away from the farmyard is not feasible or possible.
- The original family home cannot accommodate an additional family and is no longer within the farm holding of Aengus and Fiona Cullen but is in the separate ownership of Aengus' mother and sister.
- The development will not create any additional hazard as the use has long been established.
- The building cannot be seen from any strategic view which would impinge upon the existing rural amenity of South Dublin.
- To judge the house as an urban dwelling is incorrect. The applicants are genuine full-time farmers and Aengus is a native of the area. There is a genuine need, and exceptional circumstances, requiring a permanent dwelling

on the farm. This has been accepted by the District Court and the previous ABP Inspector.

- There is no requirement in the SDCDP 2016-2022 that farmers be located in urban areas away from their farmyards.
- The appellants have no other place available to them to reside other than the application site and any alternative would result in the family becoming homeless.
- A grant of permission will not establish a precedent as the current circumstances are exceptional.
- Notwithstanding the planning history of the site and the applicants, there has to be a practical and reasoned determination of this case such that the applicants can reside at their farm holding.
- The applicant is happy to accept a condition sterilising their 25 acres, under section 47 of the Planning and Development Act 2000 as amended, to ensure that no further development can take place.
- The development proposes minor amendments to the fenestration of the building including a white plaster finish to the external walls and a dark grey slate roof, along with a gravel front garden and stone walls at the entrance from Ballymana Lane.
- There are no third-party objections noted to the proposed development.
- The application is a legitimate effort to regularise the planning status of the existing dwelling.
- It is requested that Board dismiss the reasons for refusal and grant permission for the development.

There are a number of enclosures with the appeal.

## 6.2. Planning Authority Response

The Planning Authority submitted a response to the first party appeal advising that the PA confirms its decision and that the issues raised in the appeal have been covered in the planners' report.

### 6.3. Observations

None.

## 7.0 Assessment

At the outset, I would advise the Board that I did not enter the farm and took photographs from the public road. I made this decision having regard to the details submitted in the application which advises that the cattle herd is currently locked up due to a TB outbreak, originating in 2016 and unfortunately still ongoing. Together with this and in light of the current global Coronavirus pandemic, I felt it appropriate.

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning History
2. Principle of the development
3. Other Issues
4. Appropriate Assessment

### 7.1. Planning History

- 7.1.1. The Board will note that this is the sixth application submitted seeking permission for the development of a house on the subject lands, or the retention of, and amendments to the finish of, the existing timber building which has been used as a home for the applicants it would appear since 2014. Having undertaken a planning history assessment of the overall landholding, it would appear to me that there are no authorised buildings on the site. While planning permission was permitted under SD09A/0347 for the construction of a farm shed 140m x 18m to include a slatted slurry tank, cattle pen, calving cubicles, silage slab, new access from Ballymana

Lane, and site levelling works, it is noted that the building was not constructed as permitted.

- 7.1.2. PA ref: SD16A/0305 sought permission to extend previously permitted agricultural shed SD09A/0347 with new agricultural shed 36m x 18m with slatted tank, cattle pens and calving cubicles, improvement works to front entrance, and associated site works. This application was refused for 4 reasons, including the reason that the proposed development is an extension of an unauthorised structure. In an effort to regularise the situation, the applicant submitted a further application, PA ref: SD17A/0082 refers, seeking permission for the retention of (1) previously permitted agricultural shed SD09A/0347 that was rotated by 26 degrees on site, constructed on contour level 211m. (2) agricultural feed stores with improvement works to front entrance and all associated site works. This application was also refused for 8 reasons.
- 7.1.3. In addition to the above, and again, having considered the planning history associated with the subject site, there are a number of discrepancies in terms of the animal numbers on the farm. The original agricultural structure, SD09A/0347 refers, was to provide housing for 120 animals over the winter months and 170 animals on the landholding during the summer months. The application SD16A/0305, noted that the current stock in February 2016 was 320 animals in winter and 450 during the summer months. In the application for permission to retain the timber dwelling on the site which was appealed to the Board, ABP ref PL06S.247148 (PA ref SD16A/0199) refers, information was submitted to suggest that the February 2016 figures were accurate and the Board Inspector noted that there was no evidence provided to suggest that these figures were correct. The current information suggests that the applicants keep approximately 150 suckler cows and a sheep flock of approximately 450. Details of the herd profiles submitted, and dated 09/04/2019, indicate that there are 151 animals associated with Mr. Aengus Cullen and 23 associated with Mrs. Fiona Cullen.
- 7.1.4. The above issue is critical in my opinion, given that the development the subject of the current appeal explicitly depends on the presence of the existing farm buildings and farmyard constructed on the landholding. It may be considered at this stage that a grant of planning permission in this instance cannot be considered as to do so may be construed as giving validity to the unauthorised structures on the wider

landholding. In light of the above, the Board may consider refusing the proposed development for the following reason:

On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the proposed development relates to, and depends upon, farm structures which are unauthorised in that they do not comply with conditions attached to the original grant of planning permission, SD09A/0347 refers, and that the proposed development would consolidate and legitimise the use of these unauthorised structures. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

## **7.2. Principle of the development**

7.2.1. The Board will also note its previous decision in relation to the subject development, and the retention of the house on the site, ABP ref PL06S.247148 (PA ref SD16A/0199) refers. I propose to consider the current appeal in terms of the Boards previous reasons for refusal. The reasons for refusal were as follows:

1. The site is located in an area with the zoning objective HA-DM “To protect and enhance the outstanding natural character of the Dublin Mountain Area”, where it is the policy of the planning authority to restrict residential development, and also in an area identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. It is considered that the applicant has presented insufficient evidence to warrant a dwelling house at this rural location within the scope of the exceptional circumstances outlined under Policy H23 Objective 1 as set out in the South Dublin County Development Plan 2016-2022. The development proposed for retention would, therefore, be contrary to the zoning objective for the area and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the elevated location of the development proposed for retention in an area designated as ‘outstanding natural character of the Dublin

Mountains Area in the South Dublin County Development Plan 2016-2022, it is considered that the development proposed for retention would be out of character with the surrounding pattern of development, would seriously injure the visual amenities of the area, would interfere with the character of the surrounding landscape, which it is necessary to preserve in accordance with objective HA-DM of the development plan and would set an undesirable precedent for similar development in the area. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the substandard width, and vertical and horizontal alignment of Ballymana Lane, and the restricted sightlines at the entrance to the subject structure, it is considered the development proposed for retention would lead to additional traffic turning movements generated onto a narrow substandard road and would endanger public safety by reason of traffic hazard.

7.2.2. The proposed development seeks the retention of, and permission to reclad, an existing timber structure which is occupied as a permanent residence for the applicant. The applicant is a full-time farmer and has a stated landholding of approximately 25 acres. It is submitted that the applicant leases and / rents a further 200 acres in the vicinity of the farm – although the area differs between a number of documents provided. Having considered the plans submitted, it would appear to me that the intention is to replace the existing timber chalet with a block structure which will have a slate roof. The scale of the proposed development reflects that of the existing, albeit unauthorised, structure on the site.

7.2.3. The previous Board decision Reason no. 1 relates to non-compliance with the settlement location policy of the SDCDP as it relates to the zoning objective HA-DM. The South Dublin County Development Plan, at section 11.3.4 deals with Rural Housing and subsection (i) states that ‘The Rural Settlement Strategy outlined in Chapter 2 Housing sets out the requirements to meet housing need that will be considered for housing on lands that are designated with Zoning Objective ‘RU’, ‘HA-DM’, ‘HA-LV’ and ‘HA-DV’’. It is the overriding policy of the Plan to restrict the spread of dwellings in the rural ‘RU’ Dublin Mountain ‘HA-DM’ zones however, the Plan also acknowledges the needs of rural generated housing. Local Need Criteria provides that ‘persons who are an intrinsic part of the rural community or persons working full-



time or part-time in rural areas', shall be favourably considered in relation to rural housing.'

7.2.4. HOUSING (H) Policy 23 Rural Housing in HA – Dublin Mountains Zone states that 'it is the policy of the Council that within areas designated with Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) new or replacement dwellings will be only be considered in exceptional circumstances. H23 Objective 1 states that the Council will consider new or replacement dwellings within areas designated with Zoning Objective 'HA-Dublin Mountains' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) where all of the four stated criteria are met, in accordance with the Sustainable Rural Housing Guidelines (2005), having regard to the outstanding character of the area and the need to preserve the environmental and landscape quality of this area.

- The applicant is a native of the area;  
The Board will note that the applicant, Mr. Aengus Cullen was born and reared in the original family home in the local area. I am satisfied that he is a native of the area.
- The applicant can demonstrate a genuine need for housing in that particular area;  
The applicant has submitted details advising that the original family home is in the ownership of his mother and his sister, who reside there, and that it is not suitable for him and his young family to live there too. It is also considered that the house is not suitable for extension to provide the accommodation needed by the family. The Council suggest that the house could be extended.
- The development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming;  
The applicant inherited the landholding, excluding the original farmhouse, following the death of his father in 2012. It is submitted that he and his father farmed the land and the applicant has achieved certification having completed farming courses. It appears that he has farmed these lands for many years, with an application submitted in 2009 for the development of

an agricultural building to serve the farm.

It is submitted that the applicant needs to live on the farm in order to look after the animals he and his family keep. I would be satisfied that the principle of the development is acceptable given that if permitted, the house will accommodate a farming family on their lands and therefore is associated with the agricultural use of the wider landholding.

- The development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.

In terms of proposed development, the issue of environmental capacity and the character of the mountain area of critical importance. The Board has previously determined that the applicant has not demonstrated exceptional circumstances to warrant the proposed development acceptable in terms of the impacts on the landscape.

In the context of my assessment of the planning history of the site and the wider landholding, I would concur with the concerns arising in terms of the visual impacts on the wider area which has been designated as an area of outstanding natural character of the Dublin Mountain Area and having regard to the history of non-compliance, I do not consider that the current application adequately addresses the previous reasons for refusal.

- 7.2.5. In terms of H23 Objective 2, I am generally satisfied that the site of the subject appeal does not lie within the restricted areas identified on the Bohernabreena / Glenasmole Reservoir Restricted Areas Map contained in Schedule 4 of the CDP.
- 7.2.6. The third reason for refusal from the previous ABP decision relates to roads and traffic concerns arising from the development if permitted. There is no doubt that Ballymana Lane is significantly substandard in terms of its width, vertical and horizontal alignment and is inadequate for two cars to pass along much of the road in the vicinity of the site.
- 7.2.7. There is no doubt that the subject case is not clear-cut, and there is a family at the centre of this long running effort to secure planning permission for a residence on the site. While I empathise enormously with the applicants and would agree that a farmer should reside close to where their animals are located, there are other

planning issues relating to the location of the subject site. The Dublin Mountains Area is afforded a very high level of protection and the Board will note that the Planning Authority has, following the original grant of permission for the agricultural shed, resisted any further permissions on the landholding for reasons relating to protection of the landscape and precedent. I am also concerned regarding the level of unauthorised development which has taken place on the landholding.

### **7.3. Other Issues**

#### **7.3.1. Site Suitability Issues**

The Board will note that no permission is sought for the retention of the wastewater treatment system, which was installed without permission, to serve the unauthorised house on the site. This element formed part of previous retention applications but has never been granted permission. While I note that the description of the development seeks permission to retain 'a single storey family farmhouse located on the applicants' farm holding, along with all associated site development works', no specific reference has been made to the system.

I do note that a Site Character Assessment was submitted in relation to the system which suggests that the site is capable of accommodating the development in terms of the treatment and disposal of wastewater arising.

Should the Board be minded to grant planning permission in this instance, revised site notices should be requested to be submitted in order to include the full extent of the permission sought, including the wastewater treatment system.

#### **7.3.2. Sterilisation of Land**

The Board will note that as part of the appeal, the applicant has indicated their consent to a condition being included precluding any further development. It is submitted that such a condition will ensure that no precedent for the development is set. Should the Board be minded to grant permission in this instance, I would consider such a condition to be appropriate.

### 7.3.3. **Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

### 7.4. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Glenasmole Valley SAC (Site Code: 001209) located approximately 2km to the south east of the subject site. The Lugmore Glen pNHA, (Site Code 000211), is located approximately 2.2km to the north west of the site and the River Dodder lies approximately 1.4km to the east.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 **Recommendation**

I recommend that planning permission be refused for the proposed development for the following stated reasons.

## 9.0 **Reasons and Considerations**

1. The site is located in an area with the zoning objective HA-DM "To protect and enhance the outstanding natural character of the Dublin Mountain Area", where it is the policy of the planning authority to restrict residential development, and also in an area identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. It is considered that the applicant has presented insufficient evidence to warrant a dwelling house at this rural location within

the scope of the exceptional circumstances outlined under Policy H23 Objective 1 as set out in the South Dublin County Development Plan 2016-2022. The development proposed for retention would, therefore, be contrary to the zoning objective for the area and be contrary to the proper planning and sustainable development of the area.

2. Having regard to the elevated location of the development proposed for retention in an area designated as 'outstanding natural character of the Dublin Mountains Area in the South Dublin County Development Plan 2016-2022, it is considered that the development proposed for retention would be out of character with the surrounding pattern of development, would seriously injure the visual amenities of the area, would interfere with the character of the surrounding landscape, which it is necessary to preserve in accordance with objective HA-DM of the development plan and would set an undesirable precedent for similar development in the area. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.
  
3. Having regard to the substandard width, and vertical and horizontal alignment of Ballymana Lane, and the restricted sightlines at the entrance to the subject structure, it is considered the development proposed for retention would lead to additional traffic turning movements generated onto a narrow substandard road and would endanger public safety by reason of traffic hazard.

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A. Considine

Planning Inspector

23<sup>rd</sup> March 2020