



An
Bord
Pleanála

Inspector's Report ABP 308535-20

Development	Construction of a bungalow dwelling & detached garage.
Location	Drishogue, Oldtown, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0169
Applicant	Elaine Farrelly
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Sorrell Keogh
Observer(s)	None
Date of Site Inspection	9 th April 2021
Inspector	Brendan Coyne

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1.0 Site Location and Description

1.1. This site (0.48 ha) is located on the northern side of a local rural road known as 'The Grange' and/or 'Drishogue Lane' in the townland of Drishogue, c. 1.2 km to the south-west of Ballyboughal village in Co. Dublin. The site is currently undeveloped and comprises part of a large open agricultural field. The site is rectangular in shape and has a road frontage of c.54m. The roadside boundary is defined with a ditch, low-rise embankment and vegetation, and its western boundary is defined with tall mature hedgerow. A detached 1.5 storey dwelling is located on lands adjoining the site to the west. The eastern and northern boundaries are undefined. The ground level of the site is relatively flat. The surrounding area is characterised by agricultural land and dispersed rural one-off housing. Adjacent lands to the north-east are horticultural in use, characterised with extensive greenhouses.

2.0 Proposed Development

2.1. Permission sought for the following;

- Construction of a detached single storey 4-bedroom dwelling (186 sq.m.),
- Detached single storey garage (63.4 sq.m.),
- New vehicular entrance and driveway.
- Installation of a proprietary treatment system and percolation area,
- Associated site works.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council GRANTED permission for the proposed development subject to 14 no. Conditions. Noted Conditions include;

C.2 The use of the structure when completed shall be restricted to use by the applicant and/or members of the immediate family for a minimum period of seven years from the date of occupancy by the Applicant.

C.4 Foul and Surface Water Drainage requirements.

C.6 Front roadside boundary requirements.

C.7 Landscaping.

C.14 Development Contribution requirements.

3.2. Planning Authority Reports

3.2.1. First Report (15/07/2020)

- 'Residential' use is 'permitted in principle' under the 'RU' zoning objective, subject to compliance with the Fingal Rural Settlement Strategy.
- The proposed development accords with Development Plan residential standards with regards internal room area size and private amenity space requirements (Objectives DMS24 and DMS87).
- The applicant satisfactorily demonstrates she has lived at the family home 'Carhue House' in Ballyboughal for a period in excess of 15 years.
- The family home is located 2km from the appeal site.
- The applicant states that there is no land available at / adjacent to the family home to build a dwelling.
- Ambiguity remains as to whether a sibling or family member of the applicant has previously received planning permission for a house in the rural area of Fingal.
- The applicant has not submitted an affidavit stating that she conforms with the requirements of Objective RF39 of the Development Plan nor has submitted a Supplementary Application Form.
- It is unclear whether the applicant complies with Objective RF39.
- The scale and design of the proposed dwelling and garage is acceptable.
- The proposal would not impact on neighboring property by way of overlooking or overshadowing.
- Given the nature of the proposed development, the distance to the closest Natura 2000 sites and the absence of a hydrological link, no negative impacts on Natura 2000 sites are anticipated.

3.2.2. Further information was requested requiring the following (as stated):

1. The applicant has not submitted sufficient information in relation to compliance with the Rural Settlement Strategy of the Fingal Development Plan 2017 – 2023. The applicant is requested to submit/address the following; (i) A Supplementary Application Form; (ii) A sworn and signed affidavit in respect of the requirements of Objective RF39 of the Fingal Development Plan 2017-2023. (iii) The particulars submitted with the planning application are ambiguous in relation to whether a family member of the applicant has previously received planning permission for a house in the rural area of Fingal (the cover letter refers to no children of Liam Farrelly, the applicant's father, having been granted permission for a house). In completing the Supplementary Application Form (see Item 1 (i) above) the applicant is referred to Question 10 (c), i.e. confirming whether planning permission has been granted to a family member by reason of close family ties since 19th October 1999.
2. The applicant is advised of the following requirements from the Transportation Planning Section:
 - a) The applicant should provide a sightline drawing showing the provision of 120m sightlines from the proposed access including details of the works required to the existing neighbouring boundary treatment to facilitate the proposed development.
 - b) The applicant should provide details of how the sightlines will be permanently achieved.
 - c) A letter(s) of consent from third party landowner(s) where works are required to provide the required sightlines is required to be provided.
 - d) The area concerned is outside the red line boundary of the subject site. The red line boundary of the subject site should be extended to incorporate areas where works are required (as applicable).

3.2.3. **Second Report (06/10/2020)**

- Significant Further Information received on the 01/09/2020.
- The affidavit and the Supplementary Application Form submitted is acceptable. Both confirm that planning permission has not been granted to a family member, by reason of close family ties, since October 1999.

- The revised drawing submitted indicates the required sightlines at the entrance to the site and an extended red line boundary incorporating works to adjoining sites. These are acceptable to the Transportation Planning Section.
- The proposed development, by virtue of its scale and design would not unduly impact on the amenity of neighboring properties and would not detract from the amenity of the surrounding area.
- The proposal accords with the Fingal County Development Plan.

3.3. Other Technical Reports

Transportation Planning Section: In response to Significant Further Information submitted - No objection subject to Conditions.

Water Services Department: No objection subject to Conditions.

Irish Water: No objection subject to Conditions.

4.0 Planning History

4.1.1. Subject Site

P.A. Ref. F19A/0410 (Withdrawn) Permission sought by Elaine Farrelly in 2019 for a 1.5 storey dwelling & detached garage, the installation of a proprietary effluent treatment system and a percolation area and a new vehicular entrance and driveway.

P.A. Ref. F06A/1228 Outline Permission REFUSED to Gareth, Ian and Matthew Rooney for the construction of 3 no. dormer style bungalows, wastewater treatment plants, percolation areas, new site entrance and associated site works. The Reasons for Refusal were as follows;

1. The site is located in an area zoned with the objective 'To protect and provide for the development of agriculture and rural amenity' in the Development plan. The applicants do not comply with the policies under RD04 and RD05 of the Development Plan. The proposal would thus contravene materially the zoning objective for this area and would be contrary to the proper planning and sustainable development of the area.

2. The applicants have not satisfactorily demonstrated that each site can accommodate a waste-water treatment system. The proposal may be prejudicial to public health.

3. The proposed constitutes undesirable ribbon development on a substandard rural road network, which would lead to a demand for the uneconomic provision of services and would set an undesirable precedent for further similar developments in the area.

4.1.2. **Adjoining Site to the West:**

P.A. Ref. F04A/1472 Permission GRANTED in 2005 to Joseph & Louise Kettle for revisions to house type granted permission under P.A. Ref. F03A/1661, from a 3-bedroom dormer bungalow to a 4-bedroom dormer bungalow and associated site works.

P.A. Ref. F03A/1661 Permission GRANTED in 2004 to Joseph & Louise Kettle for a dormer bungalow, garage, biocycle unit and new vehicular entrance to site.

4.1.3. **Adjacent site to the south:**

F05A/1093 / ABP Ref. PL 06F.217421 Permission GRANTED ON APPEAL to Sorrell Keogh for a 1.5 storey house and biocycle wastewater treatment system.

5.0 **Policy and Context**

5.1. **Development Plan**

Fingal County Development Plan 2017-2023 is the statutory plan for the area.

Zoning: The site is zoned objective 'RU - Rural' which seeks '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'.

Landscape Character Area: Low Lying Agricultural

The following policy objectives relating to housing in the countryside are noted:

Objective RF08 Strengthen and consolidate the built form of the Rural Villages, providing a viable housing alternative to the open countryside with the advantages of a rural setting.

Objective RF26 Ensure the vitality and regeneration of rural communities by facilitating those with a genuine rural generated housing need to live within their rural community.

Objective RF27 Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the open countryside.

Objective RF61 Encourage new dwellings in the rural area to be sited at a location in close proximity to the family home where the drainage conditions can safely accommodate the cumulative impact of such clustering and where such clustering will not have a negative impact on the amenities of the original house. Where this arrangement is clearly demonstrated not to be available, permit the new dwelling to be located on an alternative site which is within two kilometres from the family home, or, in the case of applications made under Objective RF41 within two kilometres outside the Inner Noise Zone and subject to the East/West of the M1 stipulation.

Table RF02 outlines eligibility for housing in the open countryside under the Rural Settlement Strategy.

Objective RF33 Require that any house which is granted planning permission in the areas with the zoning objective, RU, HA, or GB will be subject to an occupancy requirement whereby the house must be first occupied as a place of permanent residence by the applicant and/or members of his/ her immediate family for a minimum period of seven years.

Objective RF36 Demonstrate that any proposed dwelling is for use as the applicant's primary residence and the proposed dwelling will be located on a farm where the applicant's family currently resides.

Objective RF39 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.

Table RF03: Criteria for Eligible Applicants from the Rural Community for Planning Permission for New Rural Housing

- (i) One member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant for planning permission for a house on the basis of close family ties shall be required to provide documentary evidence that:
- S/he is a close member of the family of the owners of the family home.
 - S/he has lived in the family home identified on the application or within the locality of the family home for at least fifteen years.
- (ii) A person who has been in employment in a full-time occupation which is considered to satisfy local needs by predominantly serving the rural community/economy for fifteen years prior to the application for planning permission, and has not already been granted planning permission for a new rural dwelling since the 19th October 1999. Documentary evidence of such employment is required.
- (iii) A person who is an immediate member of a rural family who has not been granted permission for a rural dwelling, since the 19th October 1999, and is considered to have a need to reside adjacent to the family home by reason of that person's exceptional health circumstances. The application for a rural dwelling must be supported by two sworn affidavits from relevant and qualified professionals, with at least one from a registered medical practitioner. A qualified representative of an organisation which represents or supports persons with a medical condition or disability may supply the other. It is to be noted that criterion no. (iii) applies in areas which have zoning objective, HA, as well as in areas with zoning objective GB and RU.
- (iv) A 'bona fide' applicant 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, subject to the following considerations:

Such applicants will be required to satisfy the Council of their long term commitment to operate a full-time business from their proposed home in a rural area, as part of their planning application. The applicant will outline within a submitted Business Plan how their business will contribute to and enhance the rural community, and will demonstrate to the satisfaction of the Council that the nature of their employment or business is compatible with, and addresses and satisfies local needs, and will protect and promote the rural community. The applicant will satisfy the Council that the nature of their employment or business is dependent on its location within the rural area so as to discourage applicants whose business is not location dependent. The applicant will demonstrate their commitment to the proposed business through the submission of a comprehensive and professionally-prepared Business Plan, and through submission of legal documentation that they have sufficient funding committed to start and operate the business. Applicants whose business is not location-dependent will not be considered.

Objective SS01 Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance.

Objective SS07 Direct rural generated housing demand to villages and rural clusters in the first instance and to ensure that individual houses in the open countryside are only permitted where the applicant can demonstrate compliance with the criteria for rural housing set down by this Development Plan.

5.2. Other Relevant Government Guidelines

Sustainable Rural Housing Guidelines for Planning Authorities (2005)

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 within 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

NPO19 Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, 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.

Code of Practice: Wastewater Treatment Disposal Systems serving Single Houses, EPA (2009)

Implementation of new EPA Code of Practice on Waste Water Treatment and Disposal Systems Serving Single Houses - Circular PSSP1/10

5.3. Natural Heritage Designations

The site is located c. 6.5km to the north-west of the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208).

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Sorrell Keogh, who resides at a dwelling located opposite the proposed entrance of the appeal site. The main grounds of appeal are summarised under the headings below, as given by the appellant;

6.1.1. Road Infrastructure

- The road serving the site is in a deteriorated state due to heavy goods vehicles using the lane each day to serve farms and large businesses in the vicinity.
- The road is not wide enough for two cars to pass.
- The proposal would create additional congestion along the laneway.
- Concern that verges to the front of neighbouring property to ensure adequate sightlines would not be maintained.

6.1.2. Over-Development

- The site is located in an area under 'Strong Urban Influence'. Objectives RF08, FR27, SS01 and SS07 apply.
- Fingal County Council has granted planning permission for houses along Drishogue Lane which has led to a demise of a picturesque, culturally and ecologically important country lane. Details of its cultural importance provided.
- Appendix attached outlining planning applications in the past 20 years along Drishogue Lane.

6.1.3. Ballyboughal Local Area Plan

- Ballyboughal village is located c. 1km from the site.

- The Ballyboughal Local Area Plan 2012 has been extended to May 2022, which identifies 12 no. Development Areas within the village for future development to satisfy housing demand.
- The Fingal Development Plan seeks to direct new housing away from the open countryside to rural village and towns.
- The Sustainable Rural Housing Guidelines (2005) recommend that urban generated housing demand should be met on zoned and serviced land within settlements.

6.1.4. **Rural Housing Need**

- It is unclear if the applicant complies with Objective RF39 of the Development Plan and its 15 year residency rule requirement.
- The applicant's father Liam Farrelly came into ownership of the family home in April 2006.
- The applicant does not comply with Objective RF61 of the Development Plan, whereby the site is located 2.8km by road from the family home.
- The applicant's profession in the hospitality sector does not require the applicant to live in a newly built house in the open countryside.
- The appeal site is under the ownership of Ian Rooney, whose 3 sons have been granted permission for houses on lands to the east and west of the site under P.A. Refs. F98A/0913, F03A/1661 and F13A/0363.
- Selling a site in this manner, in an area under severe urban generated pressure, would set an undesirable precedent and would be contrary to the Rural Housing Guidelines (2005).

6.1.5. **Private Well**

- The appellant's dwelling is located directly opposite the appeal site and is served by a private well. This well is a source of water for the appellant's dwelling and a farmhouse and livestock farm located to its east.

- Any threat of contamination to this water source serving the well would affect two households and an entire farming operation.
- The appellant's private well is located 90m from the appeal site. The percolation report submitted is erroneous where it states there are no wells located within 250m of the site.
- The percolation report notes the extremely high water table at 0.65m and the risk to groundwater.

6.1.6. **Loss of Privacy and Outlook**

- The proposal would result in an intrusion and loss of outlook from the appellant's dwelling whose main living rooms are located on the upper floor.
- The proposal would result in a loss of privacy of the upper floor habitable rooms of the appellant's dwelling.

6.2. **Applicant Response**

The response received from Michael Halligan Planning Consultants, representing the Applicant, is addressed under the headings below;

6.2.1. **Road Infrastructure**

- The Council's Transportation Section outlined no objections to the proposal subject to Conditions. These were imposed under Condition No. 6 of the grant of permission.
- The appellant acknowledged the excellent visibility along the public road under P.A. Ref. F05A/1093 / ABP Ref. PL 06F.217421, whereby the Board granted permission for the appellant's dwelling.

6.2.2. **Overdevelopment**

- Many of the applications along the lane referred to by the appellant were refused permission or relate to extensions to dwellings, dating back to the 1990's.

- The applicant has a rural generated housing need and complies with the rural settlement strategy and Objective RF03 of the Development Plan.
- The proposal provides timber fencing to either side of the vehicular entrance.

6.2.3. Rural Housing Need

- The applicant's family have a long connection with the surrounding area, where the applicant's great grandparents took up residence in Ballyboughal in 1918.
- Documentation submitted as an Appendix confirms the applicant's close family ties with the area.
- Appendices include an extract from the 1901 Census showing the applicant's great great grandparents on her mother's side living in the area.
- The applicant does not currently own and never has owned a residential property.
- The Applicant's father Liam inherited the family home in 2000 under the will of his father. The Folio was only completed in 2006 when Liam's mother passed away. The applicant was living in the family home before and during this period.
- The 2km distance between the appeal site and the applicant's family home is measured as the crow flies and not by road.
- There is no capacity on the family plot for a house and the applicant's family do not own adjoining lands.
- With reference to houses for sale in Ballyboughal village, the applicant is not obliged to buy a house anywhere as an alternative to exercising her rights under the provisions of the County Development Plan to construct her own home.
- The site was never advertised or available for sale but was offered exclusively to the applicant in view of the intergenerational connection between her family and the Rooney family, as both the applicant's father and grandfather worked on the farm of Matt Rooney along Drishogue Lane.
- The Applicant is seeking permission under Objective RF39 of the County Development Plan.

6.2.4. Private Well

- The appellant's private well is c. 300m from proposed wastewater treatment system.
- Report attached from David Ryan Site Suitability Assessor, in response to the appeal, confirming there will be no impact on the appellant's well from the proposed wastewater treatment system.
- The appellant also has a wastewater treatment system on her own site which is much closer to the private well, as granted permission on appeal under ABP Ref. PL 06F.217421
- There is a public water main along the road which the applicant intends connecting to.
- Aerial photo and map submitted showing the location of the private well and its distance from the proposed treatment system.

6.2.5. **Loss of Privacy and Outlook**

- In planning law that there is no right to a view across 3rd party lands.
- There will be no loss of privacy in view of the separation distance of 70m between the appellants and proposed dwelling and the extensive screening along the roadside boundary.

6.3. **Planning Authority Response**

The Planning Authority confirms that it has no further comment to make in respect of the issues raised in the appellant's submission. In the event of the Planning Authority's decision being upheld, the Planning Authority request that Condition No. 14 is included in An Bord Pleanála's determination.

7.0 **Assessment**

Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Rural Housing Need
- Roads / Access Issues
- Drainage
- Overlooking
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issues for consideration are addressed below.

7.1. Rural Housing Need

7.1.1. The appellant objects to the proposed development on the grounds that;

- The appellant's employment within the hospitality sector does not constitute a rural housing need.
- The applicant does not comply with Objective RF39 of the Fingal Development Plan, with regard criteria for rural housing need.
- The proposal does not comply with Objective RF61 of the Development Plan whereby the site is located 2.8km by road from the applicant's family home.
- The site is located in an area under severe urban generated pressure. Permission for the proposed development would set an undesirable precedent for similar development.
- Ballyboughal village is located c. 1km from the site. The Ballyboughal Local Area Plan extended to May 2022, identifies 12 no. Development Areas within the village for future development to satisfy housing demand.
- The Fingal Development Plan seeks to direct new housing away from the open countryside to rural village and towns.
- The proposal would be contrary to the Sustainable Rural Housing Guidelines (2005) which recommends that urban generated housing demand should be met on zoned and serviced land within settlements.

- 7.1.2. The appellant contests grounds of appeal as detailed in Section 6.2 above. The Planning Authority in its assessment considered the applicant satisfactorily demonstrated she has lived at the family home (Carhue House, to the north of Ballyboughal village) for a period in excess of 15 years. In response to Further Information submitted, the Planning Authority considers the applicant complies with Objective RF39 of the Development Plan and thereby complies with the Development Plan's rural settlement strategy.
- 7.1.3. Development Plan policy objectives relating to rural housing need are set out in Section 5.1 above. Objective RF61 seeks to 'encourage new dwellings in the rural area to be sited at a location in close proximity to the family home. Where this arrangement is clearly demonstrated not to be available, permit the new dwelling to be located on an alternative site which is within two kilometres from the family home'. The applicant has submitted a map showing the location of the family home (Carhue House) which is located c. 1.7m from the appeal site, as measured in a straight line. Given that Objective RF61 is not prescriptive in how this distance is measured i.e. by road as put forward by the appellant, I am satisfied that the distance of the appeal site from the applicant's family home complies with Objective RF61.
- 7.1.4. Objective RF29 of the Development Plan requires that 'the maximum number of dwellings permitted under any of the rural zonings will be less any additional house which has been granted planning permission to a family member since 19th October 1999'. In response to the Further Information submitted to the Planning Authority, the applicant submitted an affidavit from Ollie Shannon Solicitors confirming that the applicant lives with her parents at Carhue House in Ballyboughal, has lived there for over 15 years and that no other rural dwelling has been granted planning permission to a family member by reason of close family ties since the 19th October 1999. In the absence of evidence to demonstrate otherwise, I am satisfied that the applicant complies with the requirements of Objective RF29 of the Development Plan.
- 7.1.5. Objective RF39 sets out provisions for new housing in rural communities other than for those who are actively engaged in farming. The objective seeks to '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'. The subject lands are zoned objective RU. Criteria set out in Table RF03 is detailed in Section 5.1 above. The Applicant confirms in the documentation submitted that she is seeking permission

under Objective RF39 of the Development Plan by reason that she has “close family ties”. Supporting documentation lodged with the application include the following;

- Folio extract (DN14547F) showing the applicant’s father Liam Farrelly as the owner of the family home.
- Birth Cert showing the applicant Elaine Farrelly as the daughter of Liam Farrelly.
- Letter from Fingal Community College confirming the applicant’s residence at the family home Carhue House over the period 2003-2008.
- Bank and Revenue statements of the applicant, dated 2007-2020, confirming the applicant’s address at Carhue House, Ballyboughal.
- Utility bills and invoices of the applicant, dated 2013 - 2019, confirming the applicant’s address at Carhue House, Ballyboughal.
- Letter from ‘Kettles Country House Hotel’ with an address at Lispopple, Swords, Co. Dublin confirming the applicant’s employment there since 2014 and her address at Carhue House, Ballyboughal.
- An affidavit, as detailed above, confirming the applicant lives with her parents at Carhue House in Ballyboughal and has lived there for over 15 years and that no other rural dwelling has been granted planning permission to a family member by reason of close family ties since the 19th October 1999.

7.1.6. Having reviewed the documentation submitted, I am satisfied that the applicant complies with criteria (i) under Table RF03 of the Fingal County Development Plan by reason that she is a close family member of the family home and has lived in the family home for at least 15 years.

7.1.7. Notwithstanding the above, regard must be had to the location of the appeal site c. 1.2 km to the south-west of Ballyboughal village and in an area under ‘Strong Urban Influence’ due to its location in close proximity to Dublin City and major transport corridors, as detailed under Section 5.1 of the Development Plan. Such areas are defined in the ‘*Sustainable Rural Housing Guidelines for Planning Authorities*’ as rural areas exhibiting characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such areas and pressures on infrastructure such as the local road network. Other urban areas in the

vicinity include Oldtown (c. 2.3 km to the north-west), Rolestown (c. 2.5 km to the south) and Swords (c. 7 km to the south-east). Objective SS01 of the Development Plan seeks to 'consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance'. Objective SS07 seeks to 'direct rural generated housing demand to villages and rural clusters in the first instance and to ensure that individual houses in the open countryside are only permitted where the applicant can demonstrate compliance with the criteria for rural housing set down by the Development Plan.' Objective RF08 seeks to 'strengthen and consolidate the built form of the Rural Villages, providing a viable housing alternative to the open countryside with the advantages of a rural setting'. Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area. As stated above, I am satisfied that the applicant has close family ties with the rural community. However, the applicant has not demonstrated an economic or social need to live in this rural area. As detailed in the documentation submitted, the applicant confirms that she is currently employed with 'Kettles Country House Hotel' with an address at Lispopple, Swords, Co. Dublin which is located c. 3.5km directly to the south of the appeal site. It is my view that the nature and location of the applicant's employment establishes that the applicant's need for a house at this location is not directly related to rural locality in which it is located. Such development would therefore be contrary to Objectives SS01, SS07 and RF08, as detailed above, which seek to direct housing development to towns and villages. I am not satisfied that the applicant's housing needs could not be satisfactorily met in an established town or village in the surrounding area. Given that the applicant does not demonstrate an economic or social need to live in this rural area, it is my view that the proposed development would be contrary to the Sustainable Rural Housing Guidelines for Planning Authorities (2005) and National Policy Objective 19 of the National Planning Framework. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient

provision of public services and infrastructure. For this reason, I recommend that the proposed development be refused permission.

7.2. Roads / Access Issues

- 7.2.1. The appellant objects to the proposed development on the grounds that it would create additional traffic on a narrow substandard road, which is not wide enough for two cars to pass. Concerns are also raised that visibility / sightlines to either side of the proposed vehicular entrance and the requirement to cut back trees and grass to the front of neighbouring 3rd party property would not be maintained.
- 7.2.2. The revised site map submitted by way of Further Information to the Planning Authority details the provision of 120m sightlines to either side of the proposed new vehicular entrance. The revised site map details that hedgerows and grass to the front of neighbouring property within the vision splays would be cut or set back to allow clear unobstructed sightlines. The revised site map includes signed letters of consent from 3rd party landowners to the east and west of the site agreeing to and confirming that hedgerows and grass will be cut /set back in order to maintain the sightlines required. In consideration of the revised site map submitted, the Transportation Section of Fingal County Council outline no objections to the proposed development subject to Condition requiring the maintenance of required sightlines and requirements regarding the proposed front boundary wall and vehicular entrance gate.
- 7.2.3. Having regard to the above, and further to inspection of the site and the local road network, it is my view that the proposed development would not generate significant levels of traffic on the local rural road network to such an extent that it would create a traffic hazard by reason of the following;
- The nature of the proposed development which comprises a 4 bedroom / 8-person house would not generate significant additional levels of traffic.
 - The straight road alignment, paved surface and reasonably good structural condition of the local rural road serving the site has the capacity to serve the additional traffic generated from the proposal.
 - The 80km/h speed limit and the availability of pull-in points along the local road network which allow opposing vehicles to pass.

- The existing low volumes of traffic using the road network serving the site.

7.2.4. The location of the proposed dwelling accords with the requirements of Section 4.4 of the Rural Housing Planning Guidelines (2005) which recommends that access serving rural dwellings should be provided off local rural roads. In the absence of substantive evidence from the appellant demonstrating that the local rural road network serving the site does not have the capacity to accommodate the additional traffic generated from the proposal, it is my view that the proposal would not render the local road network unsuitable to carry the increased road traffic likely to result from the proposed development. Concerns regarding the maintenance of hedgerows and grass verges to maintain required sightlines could be dealt with by way of Condition, in the event of a grant of permission. I recommend, therefore, that this ground of appeal should not be upheld.

7.3. Drainage

7.3.1. The appellant objects to the proposed development on the grounds that the proposed proprietary treatment system poses a threat to the groundwater serving the appellant's private well. This private well is a source of water for the appellant's dwelling and the farmhouse and livestock farm located to its east. The appellant points out that the private well is located 90m from the appeal site and highlights the percolation report which identifies the extremely high water table at 0.65m and the risk to groundwater. The applicant contests these grounds of appeal as detailed in Section 6.2.4 above.

7.3.2. The proposed development provides for the provision of a proprietary treatment system and percolation area located to the rear / north of the proposed dwelling. A Site Characterisation Report (SCR) has been submitted with the application. This has been prepared by David Ryan of PercolationTests.ie, an indemnified and EPA qualified site assessor. The SCR details (inter alia) the following;

- The soil in the area consists of till derived from limestone.
- The Aquifer Category is designated as 'locally important' and is of 'low' vulnerability.
- The Ground Protection Response is 'R1' - classified as 'acceptable to normal good practice' in Annex B of the EPA Code of Practice 2009.

- No public / group scheme water supplies within 1km of the site.
- No watercourses, streams or wells are located within 250m of the area tested.
- A drainage ditch is located along the roadside boundary.
- There are no indicators of poor percolation.
- The ground water flow direction is unknown.
- Ground conditions were firm under foot at time of testing.
- Comments: The site is suitable for a septic tank or secondary treatment system based on the ground water response rating of R1. Ground water is a potential target at risk. Extra attention must be paid to separations.
- Potential suitability of the site: Good. The existing septic tank and percolation area is functioning. The new system to be installed is required due to a lack of separation distance to potential targets.
- The depth of the trial holes are 1.2m. These are located to the east of the proposed percolation area.
- Photographs of trial and percolation test holes submitted.
- The depth from ground surface to water table was 0.65m. Date of examination – 21/05/2019.
- The trial hole encountered clay topsoil to a depth of 0.3m and gravelly clay to a depth of 1m, the watertable.
- Depth from ground surface to bedrock not available.
- With regard percolation characteristics, a T value of 21.19min/25mm and a P value of 15.97min/25mm were recorded.

7.3.3. The SCR concludes that the site is suitable for a packaged wastewater treatment system and polishing filter. The treatment system to be installed comprises an O'Reilly Oakstown Effluent Treatment System, designed, installed, certified and maintained by O'Reilly Oakstown Ltd., in accordance with their EN12566 Cert and the EPA Code of Practice 2009. The SCR recommends the installation of pressurised percolation system with an area of 90m², as per the EPA Code of Practice.

- 7.3.4. The test holes were not open on the date of inspection. However, it was noted that the ground was dry and firm underfoot with no obvious indications of poor drainage, such as the presence of rushes or other indicator species.
- 7.3.5. Table 6.1 of the E.P.A. Code of Practice 2009 sets out minimum separation distances required from packaged systems, percolation area and polishing filters. For separation distances from wells, Table 6.1 refers to Annex B: Groundwater Protection Response. Table B.3 of Appendix B sets out recommended minimum distances between a receptor (inc. wells) and a percolation area or polishing filter. It is recommended that for sites with a T/P value of 10-30, clay soil with a depth of 1.2m above bedrock, and for non-gradient domestic wells that a separation distance of 25 metres be maintained.
- 7.3.6. Having regard to the aerial photo and map image submitted by the applicant in response to the grounds of appeal, a separation distance of c.300 meters would be maintained between the proposed effluent treatment system and the private well to the south-east of the site. It was noted during site inspection that there is no significant gradient drop between the subject site and adjacent lands to the south.
- 7.3.7. In consideration of the above, it is my view that the separation distances provided accord with the requirements of the E.P.A. Code of Practice 2009.
- 7.3.8. On the basis of the information submitted by the applicant as part of the Site Characterisation Report, I am satisfied that adequate percolation testing has been carried out and the appeal site is suitable for the installation of an EN certified packaged wastewater treatment system and pressurised percolation area. The Water Services Department of Fingal County Council, in its assessment of the drainage plans and Site Characterisation Report submitted, were satisfied with the documentation received and outlined no objections subject to compliance with the EPA Code of Practice (2009). I recommend, therefore, that the appeal should not be upheld in relation to this issue.

7.4. **Overlooking**

- 7.4.1. The appellant objects to the proposed development on the grounds that the proposed development would result in a loss of privacy and outlook from the first floor habitable rooms of the appellant's dwelling, which is located opposite the site, to the south.

7.4.2. The front elevation of the proposed single storey dwelling would be setback c. 34m from the front roadside boundary and would maintain a setback of c. 66m from the front elevation of the closest dwelling located adjacent to the south. The height of the proposed dwelling is 5.5m and has a pitched roof profile. I noted during site inspection that roadside boundary along its southern side of the lane is defined with dense mature trees and hedging. Given the flat terrain of the site, the height and single storey nature of the proposed dwelling, its setback from the front roadside boundary and the tall dense screening along the southern side of the lane, I am satisfied that the proposal would not adversely impact the residential amenity of neighbouring property to the south by way of overlooking or loss of outlook. Given the dense mature hedging along the western side boundary of the site, the proposal would not overlook the private amenity of the dwelling on the adjoining site to the west. On this basis, I recommend the appeal should not be upheld in relation to this issue.

7.5. **Appropriate Assessment**

7.5.1. The closest Natura 2000 site to the appeal site is the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208) which is located c. 6.5 km to the south-east of the site. Taking into consideration the nature and scope of the proposed development, the wastewater treatment system proposed to serve the dwelling, the details provided on the site characterisation form and the existing residential and agricultural development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 **Recommendation**

8.1. I recommend that planning permission should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005, wherein it is the policy to distinguish between urban-generated and rural-generated housing need. Furthermore, the subject site is located in an area that is designated 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 single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. Furthermore, the Board is not satisfied that the applicant’s housing needs could not be satisfactorily met in an established smaller town or village/settlement centre.

Brendan Coyne
Planning Inspector

09th April 2021