



An
Bord
Pleanála

Inspector's Report ABP 309124-21

Development	Single storey detached dwelling with on-site wastewater treatment system and new vehicular entrance and off-street parking to front and associated site works.
Location	Borranstown, Garristown, Co Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F20A/0516
Applicant(s)	Mary Davis and David Thomas
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Mary Davis and David Thomas.
Observer(s)	Alice Davis.
Date of Site Inspection	15 th June 2021
Inspector	Brendan Coyne

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	5
4.0 Planning History.....	7
5.0 Policy and Context.....	9
5.1. Development Plan.....	9
5.2. Other Relevant Government Guidelines	13
5.3. Natural Heritage Designations	14
5.4. EIA Screening	14
6.0 The Appeal	14
6.1. Grounds of Appeal	14
6.2. Planning Authority Response	17
6.3. Observations	17
7.0 Assessment.....	18
7.1. Rural Housing Need - Planning Authority's Reason for Refusal No. 1	18
7.2. Sightlines – Planning Authority's Reason for Refusal No. 2.....	22
7.3. Screening for Appropriate Assessment.....	24
8.0 Recommendation.....	24
9.0 Reasons and Considerations.....	24

1.0 Site Location and Description

1.1. This site (0.4 Ha) is located on the southern side of a narrow rural cul-de-sac road in the townland of Borranstown, c. 2 km to the south-west of Garristown village in Co. Dublin and c. 3.5km to the north of Ashbourne town in Co. Meath. 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. 47m. The roadside boundary is defined with a hedgerow and overgrown embankment and grass margin. Its eastern side boundary is defined with a timber post and rail fence which forms the boundary shared with a neighbouring single storey detached dwelling. The western and southern boundaries are undefined. The ground level of the site slopes downwards in a southerly direction from 103.5m OD at the roadside boundary to 95.5m OD along the southern boundary. The surrounding area is characterised by agricultural land and dispersed rural one-off housing.

2.0 Proposed Development

2.1. Permission sought for the following;

- Construction of a detached single storey 3-bedroom dwelling (140.6 sq.m.),
- New vehicular entrance and driveway.
- Installation of a wastewater treatment system, percolation area and soakaway.
- Associated site works.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council REFUSED permission for the proposed development. The 2 no. reasons for refusal were as follows;

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' and in a 'Rural Area under Strong Urban Influence' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005). The rural area is demonstrating significant development pressure from rural housing development and the associated degrading of landscape character. It is national policy in such areas under urban influence, 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 such rural areas under urban influence. The applicants are seeking a dwelling in the rural area on the basis of 'exceptional health circumstances' - i.e. paragraph (iii) of Table RF03 in Objective RF39 of the Fingal Development Plan 2017-2023 – as they relate to one of the applicant's, Dave Thomas. This category of rural generated housing need applies to a person who is an immediate member of a rural family who is considered to have a need to live adjacent to their family home by reason of that person's exceptional health circumstances. Dave Thomas is not considered to be the 'person' referred to in paragraph (iii) of Table RF03 on the basis that he is not an immediate member of a rural family whose family home is located adjacent to the application site. It is considered that the applicants have not demonstrated their need for a dwelling in the rural area of Fingal on the basis of exceptional health circumstances. The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 specifically paragraph (iii) of Table RF03 in Objective RF39, would be contrary to the Ministerial Guidelines and to the overarching national policy in the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The applicants have not submitted sufficient information in relation to vehicular access proposals, including information which demonstrates that adequate sightlines in both directions from the proposed entrance are achievable. The proposed development would therefore constitute a traffic hazard and as such would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

Basis for the Planning Authority's decision. Includes:

- The brother of the applicant Mary Davis was granted permission for a rural house in 1999 under P.A. Ref. F01A/0850. Table RF03 of the Development Plan stipulates that only one member of a rural family can apply for a rural house on the basis of close family ties. On this basis, the applicant Mary Davis is precluded from applying for a house, utilising this category of rural generated housing need.
- The applicants have not submitted a notarised Supplementary Application Form for planning permission for a rural dwelling.
- The applicants are seeking permission for a rural house on the basis of the exceptional health circumstances of the applicant David Thomas.
- Details provided of the 'exceptional health circumstances' of the applicant David Thomas.
- The applicant David Thomas does not conform with the requirements of Table RF03 of the Development Plan by reason that he is not an immediate member of a rural family.
- The applicant Mary Davis is an immediate member of a rural family whose family home is located adjacent to the subject site.
- The family home of the applicant David Thomas is not located adjacent to the subject site and therefore David Thomas does not comply with Objective RF39(iii) of the Fingal Development Plan 2017-2023.
- The applicants have not provided sworn affidavits from relevant and qualified professionals, in accordance with Para. (iii) of Table RF03 of the Fingal County Development Plan 2017-2023.
- Sightlines of 70 metres are required at the entrance to the site. The sightline drawing submitted details a sightline of 50 metres to the west only.
- The proposal would not result in overlooking or overshadowing of neighbouring property.

- The scale and design of the proposed dwelling is acceptable.
- The proposed wastewater treatment system and percolation area is acceptable to the Council's Water Services Department.
- 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.
- An Environmental Impact Assessment is not required.

3.2.2. Other Technical Reports

3.2.3. Transportation Planning Section:

- The design speed of the road at this location is 80 km/hr requiring sight lines of 145 metres from a minimum 2.0 meter set back from the edge of the road to the near side edge of the road, as per DN-GEO-03060 of the TII Standards.
- Considering the width, alignment and character of the road, sightlines of 70m in either direction from the entrance, corresponding to a speed of 50 km/hr. would be considered appropriate. This would allow clear visibility to the bend in the road either side of the entrance. A front boundary setback would be required to achieve this. A revised sightlines drawing should be provided addressing this issue.
- The sightlines drawing submitted shows a sightline of 50m to the west only. Sightlines should be shown to both the west and east of the proposed entrance.
- Concerns were raised previously under P.A. Ref. F09A/0248 with regard access from the main road onto the cul-de-sac road leading to the site.
- Forward visibility is restricted for traffic turning right from the main road onto the cul-de-sac road as a result of a blind bend.
- Given that the only access to the proposed development is via the existing cul-de-sac road and that the proposed development would directly increase use / activity of this junction, the applicant should be requested to demonstrate the available forward visibility at this junction.
- Recommendation: Further information requested addressing the above concerns.

3.2.4. **Water Services Department:** No objection subject to Conditions.

3.2.5. **Irish Water:** No objection subject to Conditions.

4.0 Planning History

P.A. Ref. F19A/0394 Permission REFUSED in 2019 to Mary Davis & Dave Thomas for a single storey detached dwelling with on-site wastewater treatment system, and new vehicular entrance and off street parking to front and associated site works.

The reasons for refusal were as follows;

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' and in a 'Rural Area under Strong Urban Influence' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005). Furthermore, it is national policy in such areas under urban influence, 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 such rural areas under urban influence. Having regard to the documentation submitted with the application the applicants have not demonstrated their need for a dwelling in the rural area of Fingal on the basis of exceptional health circumstances. The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 specifically paragraph (iii) of Table RF03, would be contrary to the Ministerial Guidelines and to the over-arching national policy in the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The applicants have not submitted sufficient information in relation to vehicular access proposals, including information which demonstrates that adequate sightlines in both directions from the proposed entrance are achievable. The

proposed development would constitute a traffic hazard. It is therefore considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

P.A. Ref. F02A/1306 Application WITHDRAWN - Permission sought in 2002 by David Thomas and Mary Davis for a bungalow, biocycle treatment system and new entrance.

P.A. Ref. F02A/0127 Permission REFUSED in 2002 to Mary Davis & David Thomas for a bungalow and biocycle treatment system. The reason for refusal was as follows;

1. The site is located in an area zoned with the objective 'to protect and provide for the development of agriculture' in the County Development Plan, 1999. The applicant does not comply with the Council's Rural Housing Policy and as such, the proposed development would contravene materially the zoning objective for this area and would be contrary to the proper planning and development of the area.

Adjoining site to the east

P.A. Ref. F01A/0850 Permission GRANTED in 2001 to Brendan Davis for a Dormer bungalow, domestic garage, new entrance and biocycle treatment system.

Adjacent site to the west

P.A. Ref. F09A/0248 Permission REFUSED in 2009 to Damien O'Brien for the construction of a single storey house (226.6sq.m.). The 4 no. reasons for refusal are summarised as follows;

1. The applicant does not comply with the Fingal Development Plan rural housing needs criteria.
2. Due to the traffic hazard which exists by reason of the substandard junction between the public road and the cul de sac, the proposed development would result in an increase in use/ activity of the hazardous junction, thereby increasing the risk associated with the traffic hazard and endangering public safety.
3. The proposed development would materially contravene Objectives RD06 and RD07 of the Development Plan.

4. The applicant has not demonstrated that the application site would be suitable for on-site wastewater treatment system to serve the proposed dwelling as the results of the T Test are not acceptable.

Adjacent site to the north

P.A. Ref. 93A/0135 Permission GRANTED in 1993 to Mr. Thomas Davis for a change of approved plans for a dwelling.

P.A. Ref. 92A/0288 Permission GRANTED in 1992 to Mr. Thomas Davis for a dormer type bungalow and septic tank with percolation area.

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: High 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 outlines criteria for eligible applicants from the rural community for planning permission for new rural housing, as follows;

- (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.

Objective RF57 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. front boundary treatment is sensitive to the rural setting. In this regard, block walls and ornamental features will be discouraged and native hedging will be utilised where appropriate.

Objective RF63 Ensure the retention of hedgerows and other distinctive boundary treatments in rural areas. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary/provision of agreed species of similar length will be required within the site.

Table 12.4 Design Guidelines for Rural Dwellings

Section 12.6 Design Criteria for Housing in the Countryside

Chapter 7 refers to 'Roads' and requires that 'Where new entrances are necessary, the relevant road design standards will be applied (DMRB in rural situations ie. the NRA Design Manual for Roads and Bridges - and DMURS in urban situations – Design Manual for Urban Roads and Streets). Such road standards are required to guarantee the safety of the general public in the County and protect the carrying capacity of the road network' .

Objective RF24: Minimise the number of new entrances to sites within a rural cluster with a preference for sharing accesses with existing dwellings or using existing entrances. New entrances will only be considered where the potential for sharing is not possible. Any removal of hedgerows, trees and walls or other distinctive boundary treatment required to accommodate sight lines must be limited in extent and must be replaced with the same type of boundary. The use of native species for replacement planting shall be used where appropriate.

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)

Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) EPA (2021) - effective for new applications since the effect on 7 June 2021.

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 River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232) is located 17.5 km to the north-west of the site.

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**

6.1.1. A first-party appeal was received from Michael Halligan Planning Consultants representing the applicants Mary Davis and David Thomas, against the decision made by the Planning Authority to refuse permission for the proposed development. The following is a summary of the grounds of appeal.

- The applicants are making the application in accordance with paragraph (iii) of Table RF03 of the Fingal County Development Plan, with regard to the exceptional health circumstances of David Thomas.

- Mary Davis was born and reared in the immediate area and her mother lives in the adjacent family home.
- The applicants and their 3 children live in a mobile home behind the family home.
- The applicant's children attend St. Mary's School in Garristown.
- The applicants have been involved in the local community over the last number of years.
- Due to difficult circumstances the applicants have been forced into their present circumstances.
- In 2012 they took over the lease of 'The Kitchen' and bar in Garristown.
- In 2014 David Thomas was the victim of a serious vehicular accident and suffered severe injuries. Segments of medical reports confirming injuries and ill health detailed.
- Due to ill health David Thomas had to close down the bar and his wife Mary Davis had to give up work to help with her husband's rehabilitation.
- David Thomas requires ongoing assistance with his daily life and requires the proposed house beside his wife's family home in order that he may maximise his life opportunities and daily activities whilst allowing his wife to return to gainful employment with the extended family support that will be available to him and his children.
- There is no definition of 'immediate member of a rural family' in the Development Plan. The Planning Authority's interpretation of David Thomas as 'not the person' is a narrow and restrictive interpretation of the relevant provision of the Development Plan. The Board is invited to adopt a less narrow and more inclusive interpretation of the definition.
- The definition of family has evolved and expanded over recent times. Definition of 'relative' provided, with respect to a 'public official'. Reference also made to the definition of a family unit in sociological literature, that of the Pontifical University of John Paul II in Krakow Press (2016) and the European Court of Justice.
- The Board is requested to recognise David Thomas as coming within the meaning of an immediate member of the farming family through marriage and to grant

permission would enable David Thomas and his family to fulfil their lives to the fullest by having the essential support available.

- It is extremely difficult to get medical reports certified by affidavit because of the cumbersome legal paper trail involved for medics and their natural reluctance to be involved in a legal process which involves the drafting of a legal document and at least two trips to legal offices.
- If requested by the Board, the applicants would redouble their efforts to secure the affidavits required.
- The circumstances of the applicants are so unusual that an undesirable precedent would not be created.
- The applicants are prepared to accept a Condition providing for the removal / relocation of the roadside boundary in order to provide the sightlines required.
- The access road to the family farm is a public road. The applicants cannot be refused permission where access can be safely provided from the site but where the public road intersection remote from the site is sub-optimal.

6.1.2. Supporting documentation lodged with the appeal include the following;

- Letter from Dr. Stephen Murphy, Ashbourne Co. Meath (dated 08/09/2016) confirming David Thomas's then medical ailments. Detailed report attached (dated 11/10/2017) confirming the injuries sustained and medical needs of David Thomas.
- Letter from Talk Therapy Meath Individual and Couple Counselling (dated 14/08/2020) detailing the injuries sustained and medical condition of David Thomas, his residence in a mobile home in Ashbourne, Co. Meath and his need to live adjacent to the family home where he can avail of support particularly when his partner is absent.
- Letter from Mr. Marcus Timlin, Consultant Orthopaedic and Spine Surgeon (dated 25/09/2015) confirming David Thomas's then age, unemployed status, pre-injury status, details of his involvement in a road traffic accident, injuries sustained and progress since the accident.

- Copy of correspondence from Aengus Ó Snodaigh TD to the Tánaiste and Minister for Social Protection (dated April 2016) regarding David Thomas and eligibility for an Invalidity Pension.
- Letter from the principal of St. Mary's National School in Garristown confirming that the children of David Thomas, with an address at Borranstown attend the school.
- Letter from the priest of the Parish of Garristown & Ballymadun (dated 25th June 2019) confirming Mary Davis was born and raised in Garristown, the family's involvement in the running of a restaurant and pub in the village, David Thomas's involvement in a road traffic incident and injuries incurred, their current residence in a mobile home on family lands in Garristown and their need for a home.

6.2. Planning Authority Response

The Planning Authority has no further comment to make.

6.3. Observations

A letter of observation was received from Alice Davis, the mother of the applicant Mary Davis, who resides at Borranstown, Garristown, Co. Dublin. The observation made is summarised as follows:

- Details provided of David Thomas's involvement in a road traffic collision, injuries sustained and rehabilitation, impact on their business, Mary Davis's need to care for her husband, financial constraints put on the family, their need to sell their house and move into a mobile home where they have resided since.
- Details provided of her son Brendan Davis's grant of permission for a house on the family land. This site was then sold to a friend.
- Details provided of how David Thomas and Mary Davis bought a house in Navan in 2003 and how this house had to be sold following David's road traffic accident.
- Details provided of David Thomas's current medical condition and need for a family home.

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 the reasons for refusal as cited by the Planning Authority. These can be addressed under the following headings;

- Rural Housing Need,
- Sightlines,
- Screening for 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 - Planning Authority's Reason for Refusal No. 1

7.1.1. The Planning Authority refused permission for the proposed development on the grounds that;

- The subject site is located 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'
- The site is located in a 'Rural Area under Strong Urban Influence' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005).
- The rural area is demonstrating significant development pressure from rural housing development and an associated degrading of landscape character.
- It is national policy in such areas under urban influence, 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 such rural areas under urban influence.

- The applicants are seeking a dwelling in the rural area on the basis of ‘exceptional health circumstances’ - i.e. paragraph (iii) of Table RF03 under Objective RF39 of the Fingal Development Plan 2017-2023 – as they relate to the applicant David Thomas.
- This category of rural generated housing need applies to a person who is an immediate member of a rural family, who is considered to have a need to live adjacent to their family home by reason of that person’s exceptional health circumstances.
- David Thomas is not considered to be a person who is an immediate member of a rural family, as required under paragraph (iii) of Table RF03 of the Development Plan.
- The applicants have not demonstrated their need for a dwelling in the rural area of Fingal on the basis of exceptional health circumstances.
- The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 specifically paragraph (iii) of Table RF03 in Objective RF39, would be contrary to the Ministerial Guidelines and to over-arching national policy in the National Planning Framework.

7.1.2. The applicants’ grounds of appeal regarding this reason for refusal is detailed in Section 6.1 above. The applicants state in the grounds of appeal that they are seeking eligibility for the proposed rural dwelling under paragraph (iii) of Table RF03 of the Fingal County Development Plan, regarding the exceptional health circumstances of David Thomas. As detailed in Section 6.1 above, the appellants put forward that;

- Mary Davis was born and reared in the immediate area and her mother lives in the adjacent family home.
- The applicants live in a mobile home behind the family home with their 3 children.
- Due to difficult circumstances the applicants have been forced into the mobile home.
- In 2014 David Thomas was the victim of a serious vehicular accident and suffered severe injuries.

- Due to injuries sustained and ill health David Thomas had to close down his bar and restaurant business in Garristown and his wife Mary Davis had to give up work to help with her husband's rehabilitation.
- David Thomas requires ongoing assistance with his daily life and requires the proposed house beside his wife's family home in order that he maximises his life opportunities and daily activities whilst allowing his wife to return to gainful employment, with the extended family support that will be available to him and his children.
- There is no definition of an 'immediate member of a rural family' in the Fingal County Development Plan 2017-2023.
- The Planning Authority in its assessment did not consider David Thomas an 'immediate member of a rural family' and the Planning Authority was narrow and restrictive in its interpretation of the relevant provision of the Development Plan. The Board is invited to adopt a less narrow and more inclusive interpretation of the definition.
- The appellants request the Board to recognise David Thomas as coming within the meaning of an 'immediate member of a rural family'.
- The circumstances of the applicants are so unusual that an undesirable precedent would not be created.
- Due to extreme difficulties, the appellants were unable to get medical reports certified by affidavit. If requested by the Board, the applicants would redouble efforts to secure the affidavits.
- The applicant's children attend St. Mary's School in Garristown.
- The applicants have been involved in the local community over the last number of years.

7.1.3. Table RF03 of the Fingal County Development Plan sets out criteria for eligible applicants from the rural community for planning permission for new rural housing, whereunder paragraph (iii) requires the following:

- (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.

7.1.4. The appellants put forward a case that David Thomas is an 'immediate member of a rural family' and has a need to reside adjacent to the family home by reason of David Thomas's exceptional health circumstances. The applicants currently live in a mobile home on the family land to the rear of the applicant Mary Davis's mother, which is located adjacent / to the north-west of the appeal site. Supporting documentation submitted with the appeal describing David Thomas's exceptional health circumstances are detailed in Section 6.1.2 above. I note also that a letter was submitted to the Planning Authority from Dr. Stephen Murphy confirming David Thomas's medical circumstances, dated the 10/08/2020. The letter from Mr. Marcus Timlin, Consultant Orthopaedic and Spine Surgeon confirming David Thomas's medical circumstances is dated the 25/09/2015. The letter from Talk Therapy Meath Individual and Couple Counselling is dated the 14/08/2020 and the letter from Fr. Farrell is dated the 25/06/2019. While the supporting documentation submitted confirms the medical circumstances of the applicant David Thomas, it is my view that the applicants have not fully complied with the requirements of Objective RF39, Table RF03 (iii) of the Development Plan which requires that an 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. The applicants have submitted no such sworn affidavits.

7.1.5. The site of the proposed dwelling is located c. 2 km to the south-west of Garristown village in Co. Dublin and c. 3.5km to the north of Ashbourne town in Co. Meath within 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 and as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" (2005). 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. I note that the applicant Mary Davis's brother was granted permission in 2001 for a dwelling on adjoining lands to the east of the appeal site, under P.A. Ref. F01A/0850. As confirmed by the applicant's mother Alice Davis, this house was sold to a family friend. Furthermore, I note that permission was granted to Thomas Davis in 1992 for a dwelling on adjacent lands to the north of the appeal site and adjacent the family home under P.A. Ref. 92A/0288, as amended by grant of permission under P.A. Ref. 93A/0135. Details of this dwelling have not been addressed by the applicants. I note however that permission was granted in 2005 for an extension to a house on this same site, to a Mr. and Mrs I. Jenkinson, as recorded on the Council's planning database. It is my view that such development to what appears to be non-family members on the family landholding is leading to the proliferation of housing in a rural area under strong urban influence, in close proximity to the urban areas of Garristown and Ashbourne. Having regard to the documentation submitted with the planning application and appeal, I am not satisfied that the applicants have a demonstrable economic or social need to live in this rural area in compliance with the requirements of Objective RF39, Table RF03 (iii) of the Development Plan. I consider, therefore, that the applicants do not come within the scope of the housing need criteria as set out in the Fingal County Development Plan, Guidelines and national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and having regard to the provisions of the Fingal County Development Plan 2017-2023, and would be contrary to the proper planning and sustainable development of the area.

7.2. Sightlines – Planning Authority's Reason for Refusal No. 2

- 7.2.1. The Planning Authority refused permission for the proposed development on the grounds that the applicants did not submit sufficient information in relation to the proposed vehicular access, including the provision of adequate sightlines in both directions at the proposed entrance. On this basis, the Planning Authority considered

the proposed development would constitute a traffic hazard. The applicants contest this reason for refusal, as detailed in Section 6.1 above.

7.2.2. The site is located on the southern side of a narrow cul-de-sac rural road, which is subject to a 80 km/hr speed limit. The Planning Authority Transportation Section assessment considered that given the width, alignment and character of the road, sightlines of 70m in either direction from the entrance, corresponding to a speed of 50 km/hr would be acceptable. The report states that in order to achieve clear visibility, the front boundary would require a setback. The report however notes that the sightline drawing submitted shows a sightline of 50m to the west only and that a sightline to the east should also be shown.

7.2.3. The NRA document 'Design Manual for Roads and Bridges (DMRB)', requires a sightline 'X' minimum setback of 2.4m from the edge of the public road and requires a 'Y' sightline distance of 160m for road design speed of 85kph, 120m for road design speed of 70kph and 70m for road design speed of 50kph. Given the narrow width and cul-de-sac nature of the road serving the site and number of dwellings it serves, I concur with the Planning Authority Transportation Section that sightlines of 70m in either direction from the entrance, corresponding to a speed of 50 km/hr. is appropriate in this instance. The site layout plan submitted shows the provision of a sightline of 50m to the west of the site. Given the applicants landholding as outlined in blue, it is my view that a sightline of 70m to the west of the site could be obtained. This would require the removal of some hedgerow along the roadside boundary to the west of the site. Whilst not strictly in accordance with the requirements of the DMRB for roads subject to an 80 km/hr, it is my view that given the width and alignment of the road and its location near the end of the cul-de-sac, the sightline provided to the west of the proposed vehicular entrance is acceptable in this instance. While a 70m sightline is not detailed to the east of the proposed vehicular entrance, given the splayed vehicular entrance to the front of the neighboring dwelling to the east and the low volumes of traffic serving 2 no. dwelling at the end of the cul-de-sac, it is my view that that a sightline to the east in accordance with the DMRB is not required in this instance. I recommend therefore, that the appeal should succeed in relation to the Planning Authority's second reason for refusal.

7.3. Screening for Appropriate Assessment

- 7.3.1. The closest Natura 2000 site to the appeal site is the River Boyne and River Blackwater SPA (Site Code 004232) and SAC (Site Code 002299) which is located 17.5 km to the north-west 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 dwelling is located with 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, published by the Government in 2018, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstratable 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 the appeal, it is considered that the applicants do not come within the scope of the housing needs criteria as set out in Section 5.2 of the Fingal County Development Plan 2017-2023. The applicants have not adequately demonstrated an economic or social need to live in this rural area in compliance with Objective RF39 of the

Development Plan, having regard to the proximity of the site to Garristown and Ashbourne and the viability of these towns. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and having regard to the provisions of the Fingal County Development Plan 2017-2023, would be contrary to the proper planning and sustainable development of the area.

Brendan Coyne
Planning Inspector

16th June 2021