



An
Bord
Pleanála

Inspector's Report ABP-309399-21

Development	Construction of a detached bungalow, on-site wastewater treatment unit and all associated site works.
Location	Milverton, Skerries, County Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F20A/0416.
Applicant(s)	John Durham.
Type of Application	Planning Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party.
Appellant	John Durham.
Observer(s)	None.
Date of Site Inspection	8 th day of May, 2021.
Inspector	P.M. Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a given site area of 0.207ha and forms part of the grounds of the applicant's family home which is located on the southern side of the heavily trafficked R127 (Skerries Road), in the townland of Milverton, c0.6km to the south west of the outermost fringes of Skerries and c1.9km from Skerries historic harbour, both as the bird would fly, in north County Dublin.
- 1.2. The site occupies an area of land that lies to the immediate west of the applicant's single storey detached family home. Its northern, southern, and eastern boundaries are comprised of mature maintained indigenous hedgerow and in its current state the main site area is in long grass. It has a relatively flat topography.
- 1.3. The site forms part of a larger parcel of land that is outlined in blue in the accompanying documentation with this land including land on the opposite side of the R127 and a shed type structures with associated yard to the east of the existing family home. This blue line area also includes a modest parcel of land that adjoins the western boundary of the redline site area. This western boundary is not demarcated. This adjoining parcel of land terminates on the eastern boundary of a vernacular in appearance and unfortunately in a derelict state semi-detached pair of cottages that are setback from the roadside edge at lower ground levels to that of the R127 carriage. At their nearest point to the redline area the curtilage of these properties is situated c38m to the west of the redline boundary of the site. Like the site this area is in grass.
- 1.4. In close proximity to the site to the east is the entrance to 'Roadstone/Milverton Quarry'.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - A detached bungalow on the side garden of an existing dwelling house (Note: 137m² and 3 bedrooms);
 - A wastewater treatment and percolation area;
 - Access onto the public road network via an existing shared vehicular entrance that serves an existing detached dwelling.

- Two on-site car parking spaces are proposed.
- A new connection to the public water supply is proposed.
- All associated site works and services.

2.2. On the 10th day of December, 2020, the applicant submitted their further information response which included:

- A Revised Flood Risk Assessment.
- Revised Site Layout Drawings.
- Supplementary documentation to demonstrate compliance with the rural settlement strategy.
- Revisions to the proposed dwelling which include but is not limited to a reduction in its depth by 4.4m, a reduction in its floor area by 25m² through to revised elevational treatments (Note: Revised gross floor area of the dwelling is 112m² and 3 bedrooms are proposed).
- A letter of consent from the landowner to make this application.

3.0 Planning Authority Decision

3.1. Decision

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

“The applicant has not demonstrated the availability of adequate sightlines from the vehicular entrance. The proposed development would therefore endanger public safety by reason of traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer’s Report** dated the 12th day of January, 2021, included the following comments:

- The applicant has satisfactorily dealt with the flood risk concerns raised.
- The applicant has not demonstrated the required sightlines can be achieved from the shared entrance onto the public road.
- Reference is made to the Transportation Planning Section's report.
- The argument put forward that the proposed development would not give rise to intensification of use of the existing entrance is not accepted.
- It is considered that the applicant meets the criteria for a dwelling at this location.
- The revised design of the dwelling is generally deemed to be acceptable.
- This report concludes with a recommendation to refuse planning permission on the basis that the proposed development would endanger public safety by reason of a traffic hazard.

The **initial Planning Officer's Report** dated the 16th day of October, 2020, concluded with a request for further information to deal with the following items:

- Flood Risk.
- Sightlines.
- Compliance with Rural Settlement Strategy.
- Redesign of dwelling sought.
- Letter of consent for the making of this application.

3.2.2. Other Technical Reports

Water Services: Final report: No objection subject to safeguards.

Transportation Planning Section: Final Report states: "*the applicant has submitted a sightline drawing; however, it does not demonstrate that sightlines can be achieved in accordance with the relevant standards. In particular the sightline on approach from the west to the proposed entrance would appear to have a sightline of c.110m, far below the 145m required for a regional road with an 80 km/hr speed limit*". It therefore raises concerns that on approach to the "*west, forward visibility is poor, potentially resulting in late detection of a vehicle which may be stopped and waiting to turn right into the property*". This report concludes with a recommendation of **refusal** on the basis that the proposed development would result in a traffic hazard.

Heritage Officer: No objection.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection, subject to safeguards.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Site:

P.A. Ref. No. F19A/0611: Planning permission was refused for a development consisting of a detached dwelling, on-site wastewater treatment system, use of an existing entrance onto the R127 which serves the applicants family home together with all associated site works and services. The stated reasons read:

“1. Based on the Fingal East Meath Flood Risk Assessment and Management Study (FEM FRAMS) and Fingal County Council’s flood zone maps, the subject site is located within a floodplain with a 1% (1 in 100) probability of flooding. The proposed development is in an area which is at risk of flooding. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEHLG & OPW November 2009) seeks to avoid inappropriate development in areas at risk of flooding. Development within Flood Zone A is where the probability of flooding is highest and development in this zone should be avoided and/or considered in exceptional circumstances. The proposed development being located within a floodplain with a 1% (1 in 100) probability of flooding, analogous with Flood Zone A would therefore be contrary to the applicable Ministerial Guidelines issued to Planning Authorities under Section 28 of the Planning and Development Act 2000 (as amended)”.

5.0 Policy & Context

5.1. Local

- 5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'RU' which has an aim to: *“protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage”*.
- 5.1.2. This Development Plan defines 'rural generated housing' need as housing needs of people who have long standing existing and immediate family ties, or occupations which are functionally related to the rural areas of the County, and are specifically defined as: *“members of farming families who are actively involved in the family farm which is located within rural Fingal as defined in Objective RF38; Persons who have close family ties to the Fingal rural community as defined in Table RF03 paragraph (i); Persons who have been in long term employment which is related to, and supportive of, the rural community as defined in Table RF03 paragraph (ii) and where the employment is dependent on the residence of the person within the rural community; Persons who are a member of a rural-located family, who are considered because of exceptional and demonstrated health reasons to have a need to reside beside their family home in the rural area as defined in Table RF03 paragraph (iii) Persons who are 'a bona fide' applicant, as defined in Table RF03 paragraph (iv), and who have a demonstrated commitment to set up a rural-related business and who may not already live in the area, nor have family connections there, or be engaged in particular employment or business classified with the local needs criteria”*.
- 5.1.3. Objective RF39 of the Development Plan states that the Planning Authority will: *“permit new rural dwellings in areas which have zoning objectives RU, or GB, on suitable sites where the applicant meets the criteria set out in Table RF03”*. It also indicates that in cases for dwelling houses within the rural area that the applicant must have a clearly demonstrated need to live in the rural area to ensure the functioning of the business and it sets out that people who have a genuine rural-generated housing need will be considered for planning permission for a house in those parts of the open countryside which have zoning objective RU.
- 5.1.4. Objective PM50 of the Development Plan states that the Planning Authority will seek to: *“ensure that new dwellings in the rural area are sensitively sited and designed and*

demonstrate consistency with the immediate Landscape Character Type and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design”.

5.1.5. Objective DMS126 of the Development Plan states that the Planning Authority will seek to: *“restrict unnecessary new accesses directly off Regional Roads. Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances. Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate thereby avoiding the creation of traffic hazards”.*

5.1.6. Table 7.1 of the Development Plan includes the R127 in its identified road schemes.

5.1.7. Section 12.4 of the Development Plan sets out the design guidance for dwellings in rural areas. For access and sightlines, it indicates the following:

- The applicant must demonstrate that safe vehicular access to and from a proposed house is provided in terms of visibility from a proposed entrance, but also in terms of impact on road traffic on the adjoining public road, through generation of turning and stopping movements by vehicles leaving and entering the proposed site.
- All applicants for planning permission must include (at a minimum scale of 1:500) comprehensive details of the way in which access to the site can be provided in a satisfactory way. Removing large stretches of roadside is not encouraged.
- The sharing of vehicular entrances will be encouraged where appropriate in order to avoid a proliferation of access points. Where a new house is to be sited adjacent to existing dwellings, use of existing entrances, avenues and driveways should be considered.

5.2. Regional Policy

- Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.

5.3. National Planning Policy

- National Planning Framework, 2018.
- Guidelines on Sustainable Rural Housing, 2005.

- Code of Practice Wastewater Treatment Disposal Systems serving Single Houses, (2009).
- Implementation of new EPA Code of Practice on Waste Water Treatment and Disposal Systems Serving Single Houses - Circular PSSP1/10.
- Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEHLG & OPW November 2009).

5.4. **Natural Heritage Designations**

5.4.1. This appeal site does not form part of, nor does it adjoin any European site. The nearest such sites are:

- Special Protection Areas: Skerries Islands (Site Code: 004122) that lies c1.8km to the north east of the site.
- Special Conservation Area: Rockabill to Dalkey Island (Site Code: 003000) that lies c3.7km to the east of the site.
- Special Protection Areas: Rockabill (Site Code: 004014) that lies c4.1km to the east of the site.

5.5. **Environmental Impact Assessment/Screening**

5.5.1. Having regard to the nature and scale of the residential development sought under this application, the significant separation distance from designated sites, the lack of any hydrological connection or otherwise to these sites, there is no real likelihood of significant effects on the environment arising from the proposed development. I consider that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.6. **Built Heritage**

5.6.1. This appeal site lies c161m to the south of National Monument DU04465 (Classification – ‘RGDH’ and described as a circular ring ditch). It also lies in close proximity to National Monument DU00150 (Classification – ‘CIST’/noted as traditionally known as the ‘Danes Burial Grounds’ with there being also a number of burials in stone coffins found in this area) and National Monument DU04460 (Classification – ‘ENCL’/noted and described as a triangular enclosure).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of this 1st Party Appeal can be summarised as follows:

- This current application overcomes the Planning Authority's previous reasons for refusal for the previous development on this site (Note: P.A. Ref. No. F20A/0416).
- The applicant's family home was constructed in the 1970s and its entrance has been continuously used since without incident.
- The access arrangements will not change if this application is granted or refused and the daily number of movements in and out will not change. The only change will be that it will be accessed by the proposed dwelling by an applicant who lives in the family home.
- Whilst the problems with the housing sector are outside the scope of this planning application the applicant is trying to provide himself with an affordable first house in a town where he is priced out of the market.
- Due to its winding nature of the R127 at this point vehicles rarely travel at or close to its 80kmph posted speed limit.
- The Board is sought to overturn the decision of the Planning Authority in this case.

6.2. Planning Authority Response

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

- Permission was refused on the basis that the applicant has not demonstrated the availability of adequate sightlines from the vehicular entrance. Therefore, the proposed development would endanger public safety by reason of a traffic hazard.
- Reference is made in the appeal submission to the Transportation Planning Section report from a previous application on this site (Note: P.A. Ref. No. F19A/0611). This concluded that additional information was required in relation to sightlines.

- The failure to provide adequate sightlines would result in a traffic hazard and for this reason the proposed development would be contrary to the proper planning and sustainable development of the area.
- In the event the Board decides to grant permission for the development sought under this application it is requested that a Section 48 condition be imposed.

7.0 Assessment

- 7.1. Having carried out an inspection of the site and its setting, having examined all the information on file including the appellants submission and the Planning Authority's response to the grounds of appeal, alongside having regard to relevant planning provisions in relation to the type of development at this location, I consider that the substantive issue that arises in this case is the grounds given by the Planning Authority to refuse planning permission. That is to say if permitted, it was considered by the Planning Authority that the proposed development would endanger the public by reason of a traffic hazard.
- 7.2. Notwithstanding this conclusion and while I consider that the Board would have generally reached similar conclusions to the Planning Authority in their determination of this application there is however one substantive matter which I am not convinced that the Board would have considered had been robustly demonstrated in the documentation submitted with this application by the applicant. This is the matter of compliance with rural settlement strategy which requires consideration of not just local but also regional and national planning provisions that deal specifically with this matter.
- 7.3. I am cognisant that Development Plan under the 'RU' land use zoning indicates under Objective RF20 that the Planning Authority will "*permit only persons with a rural-generated housing need*". I am not satisfied based on the information provided that this rural-based generated housing need has been demonstrated in a manner that is consistent with higher level provisions.
- 7.4. In particular I raise concern that the appeal site is located in an area that is identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authority's. There are strong locational reasons to support this identification as being reasonable. Including not limited to this rural area's location in easy reach of strong urban settlements, in particular Dublin. With the significant proliferation of one-

off dwellings in this rural locality reflective of the significant pressure this rural area is under.

- 7.5. In relation to the National Planning Framework, it indicates that careful planning is required to manage the demand in our most accessible countryside around cities and towns. In this regard it advocates focusing on the elements required to support the sustainable growth of rural economies and rural communities stating that: *“it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns”*, with this being subject to site through to design considerations.
- 7.5.1. In keeping with this National Policy Objective 19 of the National Planning Framework states inter alia that to: *“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 areas and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements”*.
- 7.6. While I accept that the applicant has intrinsic links with this area, I am not satisfied that the Board would have reached a similar conclusion as the Planning Authority that the applicant has robustly demonstrated a functional genuine socio and/or economic housing need that would necessitate them to have a one-off dwelling at this location. With this concern being further heightened in that the proposed dwelling is described in the appeal submission as “an affordable first house” for the applicant. Yet the provision of such a first house is in an un-serviced in public mains drainage location in an area where there is a proliferation of wastewater treatment systems in an area at risk of flooding that is close to the fringes of the settlement of Skerries where the distinction between urban and rural has over several decades become increasingly blurred with access directly onto a regional road by way of an existing entrance that is substandard and forms part of an indented double entrance that serves the shed structures that lie immediately to the east of the applicants family home with it appearing that some light industrial type uses may be taking place at this location given the number of vehicles present thereon and vehicles that accessed these sheds

during my inspection of the site and its setting. This rural location is also remote from the applicants place of employment with the applicant's employment not being one that is linked to the rural functioning of this locality.

- 7.7. This particular concern I consider to be a new issue in the context of this appeal as the appellant essentially seeks that the Board overturn the Planning Authority's single reason for refusal.
- 7.8. In relation to the Planning Authority's reason for refusal the appellants appeal submission in my view has not demonstrated that the proposed development which would seek the use of an existing entrance onto the heavily trafficked R127 where the maximum speed limit applies, where there is a single white line running through the centre line of this road which at this point has a modest width with no useable by traffic verges and with the posted speed limit being 80kmph. There are also a number of traffic warning signs in the immediate vicinity warning of bends, width restrictions and overtaking.
- 7.9. I did not observe that it is the case that the winding nature of this regional road along the adjoining stretch that serves the existing entrance to the applicant's family home and whatever enterprise is being conducted from the adjoining shed structures is such that it in actually deters vehicles from travelling along this road at speeds significantly below the 80kmph posted speed limit. Further this contention is not based on any evidence-based investigation of this stretch of road. From my observations and having walked the adjoining stretch of the R127 I found that it is heavily trafficked despite the fact that my inspection occurred during a time where there are restrictions on movements due to the pandemic. I also observed that the majority of cars were travelling at great speed and that there was a steady movement of larger vehicles accessing and egressing from Roadstone's commercial operations at Milverton Quarry whose entrance lies in close proximity to the east of the subject site. This I observed did cause issues in terms of the safe movement of traffic along this stretch of regional road.
- 7.10. Of further concern the appeal submission does not demonstrate that the required sightlines of 145m are currently achieved in both directions based on appropriate professionally based examination of the current situation. The appeal submission also indicates that there is no willingness for any changes to be made to what would

become a shared entrance used by two separate detached dwellings that as said is located in close proximity to an access serving sheds within the blue line area of the site and is located in close proximity to the entrance of Roadstone's commercial operations at Milverton Quarry.

- 7.11. Indeed, the appeal submission states: "*the access arrangements will not change if this application is granted or refused*".
- 7.12. This sentiment in my view echoes a lack of consideration of ensuring that the existing entrance meets the required standards so that its substandard sightlines are addressed by way of this application. Indeed, it would be an opportunity to improve a substandard entrance situation in the case of a dwelling that dates back to the c1970s and that is located in immediate proximity to a separate entrance to sheds also in the family landholding that since their provision the road situation and the volumes of traffic this road accommodates undoubtedly has significantly intensified. Moreover, the dwelling house would be another dwelling using this entrance with this dwelling accommodating three bedrooms. Therefore, there is potential for intensification of use of this entrance to arise not just during the construction phase but also when occupied.
- 7.13. Alongside the Planning Authority also rightly noted that in future there is potential for changes in ownership to occur which could further change the situation in terms of traffic generation.
- 7.14. Moreover, future occupants of the proposed dwelling would be highly reliant on use of private vehicles across all journey types as the R127 is not only remote from services, amenities and the like that occupants would require access too, but this remoteness is added to by its unsuitability of this stretch of the R127 for future occupants to walk or cycle to gain access to services, amenities through to accessing public transport.
- 7.15. I also note to the Board that Section 12.4 of the Development Plan, sets out the design guidance for dwellings in rural areas and of relevance it requires applicants to:
- 1) Demonstrate that safe vehicular access to and from a proposed house is provided in terms of visibility from a proposed entrance, but also in terms of impact on road traffic on the adjoining public road, through generation of turning and stopping movements by vehicles leaving and entering the proposed site.

- 2) That all such applications must include comprehensive details of the way in which access to the site can be provided in a comprehensive and satisfactory way in terms of details.

These two criteria have not been demonstrated in any of the documentation received by the applicant.

- 7.16. Though the sharing of vehicular entrances is encouraged under Section 12.4 of the Development Plan this is where it is appropriate in order to avoid a proliferation of access points. In this situation sharing of an entrance onto a heavily trafficked regional road where the required minimum sightlines for this type of road situation have not been demonstrated is not an acceptable solution to providing safe access to serve a proposed dwelling.
- 7.17. In addition, it would be contrary to Objective DMS126 of the Development Plan seeks to ensure premature obsolescence of such roads. The intensification of existing entrances onto regional roads like this and in situations where such entrances do not meet minimum standards arguably would cumulatively contribute to the premature obsolescence of such roads.
- 7.18. Of further concern I am not convinced that the sightlines that are indicated as being achievable are based on an accurate representation based on an examination by an appropriate professional of the actual physical attributes of this road and I am therefore not satisfied that the sightlines indicated represent realistic sightlines for the entrance which the proposed development seeks to share.
- 7.19. Moreover, the link between the internal access and the existing driveway/parking area serving the applicants family home is of a substandard design and has the potential to give rise to further conflict between road movements in the vicinity of what become a shared entrance onto the R127.
- 7.20. Based on the above considerations I am not satisfied that a safe access onto the public road has been demonstrated to serve this proposed dwelling and I would share the Planning Authority's Transportation Section's considerations that the proposed use of this existing entrance should be considered as an 'intensification' of use and that the sightlines for this entrance should be in accordance with DN-GEO-03060 of the TII Standards, i.e., a sightline of 145m to the near edge of the road as observed from the vantage point set back of 2.4m from the edge of the road in both directions.

- 7.21. I would also share their concern given the sightline on approach to the west from the proposed shared entrance has a given 110m, which is significantly below the 145m required for a regional road with an 80kmph speed limit that the approach from the west, has the potential to endanger road users and give rise to potential conflict in movements in the immediate vicinity of the entrance due to this limited visibility which could result in late detection of a vehicle which may be stopped and waiting to turn right into the property.
- 7.22. Based on the above considerations I generally concur with the Planning Authority's recommendation to refuse planning permission on the basis that the proposed development, if permitted, would endanger road users, and would result in a traffic hazard. Moreover, I consider, if permitted, it would be contrary to relevant local planning provisions.

8.0 **Appropriate Assessment**

- 8.1. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude on the basis of the information on file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

9.0 **Recommendation**

- 9.1. I recommend that permission be **refused** for the reasons and considerations set out below. The Board may wish to add an additional reason and consideration on the matter of lack of compliance with rural settlement strategy; notwithstanding, the endangerment to public health and the traffic hazard concerns are substantive in their nature to sustain a refusal in this particular case.

10.0 **Reasons and Considerations**

It is considered that the proposed vehicular access onto a heavily trafficked regional road would endanger public safety by reason of traffic hazard and would, therefore, be contrary to Objective DMS126 of the Fingal County Development Plan, 2017 to

2023, as amended, which seeks to prevent premature obsolescence of regional roads and the design guidelines set out under Section 12.4. This section of the Development Plan requires applicants for dwellings in rural areas to demonstrate safe vehicular access to and from a proposed house can be provided in terms of visibility from an entrance and that all applications for such developments be accompanied by comprehensive details in the way in which access to the site can be provided in a comprehensive and satisfactory way. The applicant in this case has failed to demonstrate either.

The Board is not satisfied that the applicant has demonstrated the availability of adequate sightlines from the vehicular entrance that would serve the proposed dwelling and that the proposed development, if permitted, would not endanger public safety by reason of traffic hazard.

In addition, the proposed development is a type that would contribute to the premature obsolescence of this regional road which would be contrary to Objective DMS126 of the Development Plan. As such to permit the proposed development would be contrary to this Development Plan objective.

Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector
9th day of May, 2021.