



An  
Bord  
Pleanála

## Inspector's Report ABP 310573-21

<b>Development</b>	Construction of four bedroom dwelling and half house percolation area, R.W. harvesting system, soak-away, together with detached garage.
<b>Location</b>	Bramble Lodge, Tyrellstown, Lusk, Co Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F21A/0186.
<b>Applicant(s)</b>	Ryan Douglas.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ryan Douglas
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	02 <sup>nd</sup> December 2021
<b>Inspector</b>	Brendan Coyne

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## **1.0 Site Location and Description**

1.1. The site (0.28 Ha) is located on the western side of Featherbed Lane in the townland of Tyrellstown, c. 3 km to the north-west of Rush and c. 2.8 km to the north-east of Lusk in Co. Dublin. The site as outlined in red contains a grassed field (former paddocks). A horse stable structure and sheds are located on land adjoining the north-western corner of the site and a 1.5 storey dwelling (known as Bramble Lodge) is located on adjoining lands to the north. A gated vehicular entrance at the north-eastern corner and gravelled driveway along the northern boundary provides access to the paddocks and stable structures. A separate vehicular entrance serving Bramble Lodge adjoins the entrance serving the site. Wing walls and piers are provided to either side of both entrances. The site is rectangular in shape and has a road frontage of c. 57m. The roadside boundary is defined with a hedgerow. Its northern side boundary is defined with a timber post and rail fence and its western and southern boundaries are defined with timber panel fencing. The Dublin-Belfast rail line runs adjacent the western boundary, to the rear of the stables building. The ground level of the site slopes is flat. 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 1.5 storey four bedroom dwelling (187.3 sq.m.),
- Detached garage (29 sq.m.),
- Driveway accessed by existing vehicular entrance gates,
- Installation of a wastewater treatment system, percolation area, rainwater harvesting system and soak-away,
- Ancillary 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 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'. Residential development is only permitted on suitable sites where the applicant has established a genuine need to live in the rural area, subject to specific criteria (contained in Table RF02) as expressed in Chapter 5 of the Fingal Development Plan, 2017 - 2023. The site is also located 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 issued by the Department of Housing, Planning and Local Government in February 2018, 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 applicant has not demonstrated their eligibility to be considered for a dwelling in the rural area of Fingal on the basis of 'close family ties.' The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 including Objective RF39(i) and 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. In its present format the proposed development by reason of inadequate sightlines would endanger public safety by reason of traffic hazard. The proposal would therefore be contrary to Objective DMS129 of the Fingal

Development Plan 2017-2023 and contrary to the proper planning and sustainable development of the area.

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

#### **3.2.1. Planning Report**

- The site is zoned 'RU' in the Fingal Development Plan 2017-2023.
- 'Residential' use is 'permitted in principle' under the 'RU' zoning objective, subject to compliance with the Fingal Rural Settlement Strategy.
- The proposed 4 bedroom/7 person dwelling complies with Objective DMS24 of the Fingal Development Plan 2017-2023, with regards internal floor area requirements.
- The proposal which has 75 sq.m. private amenity space complies with Objective DMS87 of the Fingal Development Plan 2017-2023, with regards private amenity space.
- The Rural Settlement Strategy which is applicable to lands zoned 'RU' provides that those with a rural-generated housing need are accommodated while those with urban generated housing need are directed towards the towns and villages.
- As the application site is zoned 'RU' the applicant is required to demonstrate compliance with the Rural Settlement Strategy of the Fingal Development Plan 2017-2023.
- The strategy provides five categories of rural generated housing need under which applications for one-off rural housing can be made and sets out the criteria, which applies to each as follows;
  - Actively involved in the family farm as defined in Objective RF38
  - Close family ties
  - Employment related to the community
  - Exceptional health reasons
  - "Bone fide" business
- The applicant is seeking permission for a new rural dwelling on the basis of the 'close family ties' category i.e. Objective RF39(i) of the Development Plan.

- In order to demonstrate compliance with the Rural Settlement Strategy the applicant has submitted documentation including:
  - A letter of consent from the landowner (the applicant's father) authorising the applicant to apply for planning permission on the subject site;
  - A copy of a letter confirming mortgage approval from a financial institution addressed to the applicant's father at Bramble Cottage, Tyrellstown, Lusk, Co. Dublin dated 30th April 2007.
  - The Planning Statement states that the applicant's father rented Bramble Cottage from 2004 and that the applicant has lived there since 2004 having previously lived at Racecourse Commons, 3 kms from the site.
  - An undated letter from St. Joseph's Secondary School, Rush, Co. Dublin stating that the applicant attended there from August 2007 until June 2013. The letter confirms that school records demonstrate the applicant's address on enrolment was Racecourse Commons, while their address on departure from the school was Bramble Lodge, Tyrellstown, Co. Dublin.
  - A letter dated 2014 from The Old Borough National School, Swords confirming the applicant attended that school from September 1999 to 2007 and that school records demonstrate their address as Racecourse Commons, Lusk 'for the duration of his school time here.' The letter indicates that Bramble Lodge was a forwarding address for correspondence.
- No other information relating to the applicant's residency at Bramble Lodge i.e. the family home, has been submitted with this application
- Based on the documentation submitted, the Planning Authority considers that the applicant has not demonstrated compliance with Objective RF39(i) of the Fingal Development Plan 2017-2023 which requires that they have lived in the family home (indicated as 'Bramble Lodge') or within the locality of the family home for at least 15 years.
- No documentary evidence has been provided which verifies the applicant has lived in 'Bramble Lodge' since 2004 ,as stated.
- From the submitted documentation it is evident that the applicant was living at 'Bramble Lodge' by 2013 however the submitted documents do not support the

applicant's residency there for a period of at least 15 years as required by Objective RF39(i).

- Under P.A. Ref. F19A/0499 the applicant submitted their birth certificate which demonstrated their relationship to the owners of the property stated as being the family home and indicated their previous address as 5 Racecourse Commons, Lusk, Co. Dublin (which is zoned 'RU') prior to moving to 'Bramble Lodge,' and which is located c 3.7 km from their current address.
- Objective RF39 (i) requires that an applicant seeking a dwelling on the basis of close family ties has lived in the family home or within the locality of the family home for at least fifteen years.
- Objective RF61 provides that new dwelling in rural areas are sited at a location in close proximity to the family home and 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.
- Having regard to the distance between the property which was formally the family home (i.e. 5 Racecourse Commons, Lusk) and the current family home (i.e. Bramble Lodge, Tyrellstown, Lusk) which is greater than 2 km, the applicant's current address is not considered to be within the locality of the previous property and as such the applicant's residency at 5 Racecourse Commons, Lusk does not contribute towards the required 15 year period.
- The applicant has not demonstrated compliance with the Rural Settlement Strategy, specifically Objective RF39 (i) of the Fingal Development Plan 2017-2023 which requires applicants to have lived in the family home or within the locality of the family home for at least fifteen years. Accordingly, a refusal of permission is recommended.
- The applicant has not provided relevant folios and corresponding Land Registry maps in respect of both the property indicated as the family home and the application site.
- A Supplementary Application Form for Planning Permission for a Rural Dwelling was not submitted.

- The proposed dwelling which is a contemporary interpretation of a vernacular rural building is well designed, would successfully integrate with the site and would not in itself and cumulatively adversely impact on the character of the area.
- Having regard to the design of the proposal and noting the separation distances between the proposed dwelling and the respective boundaries of the site and the adjoining dwelling to the north, no significant overshadowing or overlooking of neighbouring property would occur.
- Transportation Planning Section report and recommendation noted (see below).
- A site characterisation report is submitted which demonstrates that the site is suitable for onsite disposal of wastewater.
- A 6PE packaged wastewater treatment system and polishing filter are proposed.
- In terms of surface water drainage a soakaway and a rainwater harvesting system are proposed.
- The Water Services Engineer outlines no objection to the proposal subject to standard conditions relating to foul sewer and surface water drainage.
- Having regard to the nature and location of the proposed development and the absence of a hydrological pathway between the subject site and Natura 2000 site(s), the project is not likely to have a significant effect on any European site, either alone or in combination with other plans or projects.

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

#### **3.2.2.1. Transportation Planning Section:**

- The posted speed of the road at this location is 80 km/hr, requiring sightlines of 145m visibility from a 2.4m setback from the nearside edge of the road, as per DN-GEO-03060 of the TII Standards.
- It is proposed that the existing access to the stables and sheds become a joint access and accommodate the proposed dwelling as well. This is acceptable to the Transport Planning Department.
- In such circumstances a 2.4m offset is appropriate.
- There is a low level of traffic on the road at this location.



- The proposed development is close to a bend both to the North and the South.
- The alignment of the road leads to a low speed environment most vehicles observed took the bends at below the posted speed limit but the sightlines are limited to the North due one of the bends.
- The access is on a rural county road that is circa 3m wide at the proposed entrance. It is deemed too narrow for overtaking at speed.
- A relaxation can be given so that sightlines can be measured to the centreline of the road. This will result in less of a length of the hedgerow having to be cut back.
- It was noted during site inspection that the ambient speed of the road users was below the posted speed limit of 80km/h and was deemed to be in the region of circa 50km/h which would require sightlines of 70m in both directions to the centreline of the road using a 2.4m offset from the edge of the road back along the centreline of the access.
- A relaxation to sightline requirements can be given in this circumstance.
- The Transport Planning Department require that no object be over 0.9m in height within the visibility triangle.
- Both the piers and a length of both the walls to the North and South of the double entrance to the stables and family home are within the visibility triangle and are in excess of the 0.9m requirement.
- The front face of piers would have to be relocated behind the 2.4m offset from the edge of the road as required by the visibility triangle.
- The boundary wall that lies within the visibility triangle would also have to be removed leaving the wall behind the relocated pillars or all objects within the visibility triangle could be reduced to a height of 0.9m.
- If the applicant cannot achieve the required 70m sightlines in both directions then a speed survey may be of benefit whereby if the ambient speeds on the road are below the posted speed limit, then the sightline distances would be based on the lower traffic speeds.
- The information can be used to determine the required sightline distances for the 85% traffic speeds.

- A radar gun cannot be used for any such survey.
- In conclusion the report recommends that if planning permission is under consideration, the following additional information should be requested;
  1. A sightline drawing indicating sightlines of 70m either side of the entrance from a 2.4m setback as per requirements of DN-GEO-03060 published by Transport Infrastructure Ireland should be submitted. Details of works required to existing and neighbouring boundaries in order to facilitate the required sightlines should be indicated on the drawings as alterations to the piers and overgrown hedgerow are required to ensure acceptable sightlines. The drawing should also include the necessary set-backs required in relation to existing features.
  2. Alternatively, the results of a speed survey can be used to determine the corresponding sightlines required for the 85th percentile traffic speeds on the road in the vicinity of the proposed development.

3.2.2.2. **Water Services Section:** No objection subject to Conditions.

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

## 4.0 Planning History

### 4.1.1. Subject Site

**P.A. Ref. F19A/0499** Permission REFUSED in Dec 2019 to Ryan Douglas for the construction of a new four bedroom dormer bungalow with waste-water treatment system, percolation area, R.W. harvesting system, and soakaway, together with garage, driveway accessed by existing vehicular entrances gates. The reason for refusal was 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 applicant has not demonstrated their need for a dwelling in the rural area of Fingal on the basis close family ties. The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 specifically Objective RF39 of the Fingal Development Plan 2017 – 2023, 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.

#### **4.1.2. Adjacent Site to the north**

**P.A. Ref. F01A/1438** Permission GRANTED in May 2002 to A. Fagan for the construction of a Dwelling with biological sewerage unit.

**P.A. Ref. F08B/0025** Permission GRANTED in May 2008 to Mr. J. Douglas for the construction of a two storey extension to side, with 2 no. dormer windows and 1 no. velux window to front of the existing dwelling, new natural stone cladding to front façade and a new double garage to the rear of dwelling.

## **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’.

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 19<sup>th</sup> 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 19<sup>th</sup> 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 i.e. 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. Natural Heritage Designations

The site is located c. 2.7 km to the north of the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208) and c. 3.7 km to the west of the Rockabill to Dalkey Island SAC (Site Code: 003000).

## 5.3. 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 first-party appeal was received from Aaron Dunne Consultants representing the applicant Ryan Douglas, 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, relating to the reasons for refusal accordingly.

#### **6.1.1. Reasons for refusal No. 1**

- The appellant complies with the criteria for new rural housing under paragraphs (i) and (iii) of Table RF03 of the Fingal County Development Plan
- The proposed dwelling is for use as the applicant's primary residence.
- The appellant was born on the 15<sup>th</sup> October 1994 to John Douglas and Kim Lee.
- The appellant lived at 5 Racecourse Commons, Lusk from 1998 to 2003.
- From 2003 to 2005, the appellant's parents John Douglas and Kim Lee rented Bramble Lodge, the dwelling on the adjoining site to the north.
- In 2005, the appellant's parents purchased Bramble Lodge have lived at this address with their son Ryan (the appellant) ever since. Land registry details provided.
- In 2003 the appellants parents purchased the appeal site and set up a livery yard. The Livery yard is no longer running.
- The appellant never submitted a supplementary application form for a rural dwelling with the planning application.
- Fingal County Council should have sought the supplementary application form by way of a request for additional information. The application form states that 'failure to supply this information with the planning application will result in a request for additional information'.



- Supporting documentation submitted with the appeal to support the case for a rural house includes the following:
  - Completed supplementary application form for planning permission for a rural dwelling.
  - OS Map showing the location of the family home.
  - Letter from Primary and Secondary Schools.
  - Land Registry Folios details
  - Birth Certificate
  - Passport
  - Letters from Hennessy and Perrozzi Solicitors letter to Aaron Kelly and Company Solicitors and Law Society letters to John Douglas and Aaron Kelly and Company Solicitors.
- Details provided of the rectification of land registry folios of the appellant's father John Douglas.
- There have been a number of similar planning applications in the area of Lusk whereby Fingal County Council requested additional information and granted planning permission for similar rural houses, including the following:
  - F18A/0329 No. 5 Woodlawn House, Racecourse Commons, Lusk, Co. Dublin.
  - F18A/0318 Featherbed Lane, Ballykea, Lusk, Co. Dublin.
  - F20A/0025 Farmlands at Regles, Corduff, Lusk, Co Dublin.
- The appellant has been treated unfairly. Fingal County Council should have requested additional information as per other planning applications, to submit evidentiary proof and documentation to support the planning application which is now before the Board.
- The appellant's father has a medical condition which requires monitoring.
- Letter from a medical practitioner submitted stating that it would be advantageous for the appellant to live near the family home.

### 6.1.2. **Reasons for refusal No. 2**

- The entrance to the proposed dwelling is an existing entrance that was used for the old Livery Yard beside Bramble Lodge.
- The Livery Yard is no longer running.
- This entrance will only be used by the appellant and his parents in the future.
- The appellant's father will amend the existing entrances to comply with DN-GEO-03060 to achieve the required sightlines of 70m for a 60kph speed road for both entrances, as shown on drawing No. 2105.PLA.108 submitted with the appeal.
- Sightlines at the existing entrance, when setback 2.4m from the road edge are 21m to the south and 70m to the north.
- The appellant proposes to pull back the splayed wall and pillar by 1 metre. By doing this, sightlines of over 70m to the north and south are achievable. This will also improve the sightlines for Bramble Lodge.
- This issue could have been dealt with by way of Further Information at the planning application stage, if so requested by the Council.

### 6.2. **Planning Authority Response**

Having assessed the first party appeal, the Planning Authority confirms that it has no further comment to make in relation to the proposed development.

## 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 at Vehicular Entrance,
- 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**

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

- The 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'.
- Residential development is only permitted on suitable sites where the applicant has established a genuine need to live in the rural area, subject to specific criteria (contained in Table RF02) as expressed in Chapter 5 of the Fingal Development Plan, 2017 - 2023.
- The site is also located in a 'Rural Area under Strong Urban Influence' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005).
- It is national policy in such areas under urban influence, as set out in National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, 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 applicant has not demonstrated their eligibility to be considered for a dwelling in the rural area of Fingal on the basis of 'close family ties.'
- The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 including Objective RF39(i) and 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.

7.2. The appellant's grounds of appeal regarding this reason for refusal is detailed in Section 6.1 above. The appellant Ryan Douglas states in the grounds of appeal that he complies with the criteria for new rural housing under paragraphs (i) and (iii) of Table RF03 of the Fingal County Development Plan.

7.2.1. 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 paragraphs (i) and (iii) require the following:

- (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.
- (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.

7.2.2. The appellant puts forward a case that he has lived with his parents at the family home 'Bramble Lodge' on the adjoining site to the north since 2003 and that the appellant's parents have owned the appeal site since 2003, whereupon they set up a livery yard, which is no longer running. The appellant also states that his father has a medical

condition which requires monitoring and would benefit from the appellant living nearby. The appellant states that proposed dwelling would be his primary residence. On this basis, the appellant contends that he complies with the criteria for new rural housing under paragraphs (i) and (iii) of Table RF03 of the Fingal County Development Plan.

7.2.3. Supporting documentation submitted with the planning application and appeal include the following:

- A Revenue record from the Revenue Commissioners dated 18/12/2003 confirming payment of stamp duty for non-residential land at Tyrellstown Beg by the appellants father John Douglas.
- Bank Statement dated 18/03/2005 confirming letter of approval of mortgage loan to John and Kim Douglas for Bramble Lodge at Tyrellstown.
- Letter of Insurance dated 12<sup>th</sup> April 2005 to John and Kim Douglas for Bramble Lodge at Tyrellstown Big, Lusk.
- Bank Statement dated Sept. 2006 confirming the appellants father John Douglas's residence at Bramble Lodge, Tyrellstown.
- A letter of consent from the landowner (the applicant's father) authorising the applicant to apply for planning permission on the subject site.
- A copy of a letter confirming mortgage approval from a financial institution addressed to the applicant's father at Bramble Cottage, Tyrellstown, Lusk, Co. Dublin dated 30th April 2007.
- Supplementary Application Form for the appellant Ryan Douglas detailing the following;
  - The appellant lives at Bramble Cottage, Tyrellstown, Lusk, Co. Dublin and has lived at this premises for 17 years.
  - The appellant is currently employed as a graphic designer and works at the N1 Business Park in Swords, Co. Dublin.
- Appellants Birth Certificate.
- PAYE Income details and address at Bramble Cottage, Tyrellstown, Lusk.
- Land registry details including Folios confirming the appellants parents ownership of Bramble Lodge.

- Undated letter from St. Joseph's Secondary School, Rush, Co. Dublin stating that the applicant attended there from August 2007 until June 2013.
- A letter dated 2014 from The Old Borough National School, Swords confirming the applicant attended the school from September 1999 to 2007 and his home address was initially at Racecourse Commons, Lusk followed by a move to that Bramble Lodge, Tyrellstown, Lusk.
- Letters from Hennessy and Perrozzi Solicitors letter to Aaron Kelly and Company Solicitors and Law Society letters to John Douglas and Aaron Kelly and Company Solicitors regarding rectification of land registry ownership.
- Letter from Dr. Brendan Doyle Consultant Cardiologist dated June 2021 stating that the appellants father John Douglas has a medical condition which requires monitoring and would benefit from a family member living close by.

7.2.4. Having reviewed the documentation submitted, I am satisfied that the appellant's parents have owned the family home Bramley Lodge on the adjoining site since 2005. The appellant however has not submitted substantive documentary evidence demonstrating that he has lived in the family home for at least 15 years in accordance with the requirements of Objective RF39, Table RF03 (i) of the Fingal County Development Plan. Furthermore, the appellant has not demonstrated compliance 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 appellant has submitted no such sworn affidavits. I consider, therefore, that the applicant does not come within the scope of the housing need criteria as set out in in Section 5.2 of the Fingal County Development Plan, Guidelines.

7.2.5. Further to the above, regard must be had to the location of the appeal site c.3 km to the north-west of Rush and c. 2.8 km to the north-east of Lusk in Co. Dublin 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 appeal 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 demonstratable

economic or social need to live in a rural area. 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.

- 7.2.6. 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 he is currently employed as a graphic designer in the N1 Business Park in Swords, Co. Dublin which is located c. 18 km to the south-west 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.

### 7.3. Sightlines at Vehicular Entrance - Reason for Refusal No. 2

- 7.3.1. The Planning Authority refused permission for the proposed development on the grounds that inadequate sightlines at the existing vehicular entrance would endanger public safety by reason of traffic hazard. On this basis, the Planning Authority consider the proposed development would be contrary to Objective DMS129 of the Fingal Development Plan 2017-2023. The appellant contests this reason for refusal, as detailed in Section 6.1 above.
- 7.3.2. Objective DMS129 seeks to 'Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards'.
- 7.3.3. I note that the Council's Transportation Planning Section did not recommend that the proposed development be refused permission but rather requested further information requiring a sightline drawing indicating sightlines of 70m either side of the entrance from a 2.4m setback as per requirements of DN-GEO-03060 published by Transport Infrastructure Ireland or alternatively the results of a speed survey to determine the corresponding sightlines required for the 85th percentile traffic speeds on the road in the vicinity of the proposed development.
- 7.3.4. The appeal site is located on the western side of a local rural road and is located within an 80km/hr speed limit zone. Objective DMS126 of the Development Plan seeks to '*ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards*'. The NRA document Design Manual for Roads and Bridges (DMRB), specifically Section TD 41-42/09 requires a sightline 'X' minimum setback of 2.4m from the edge of the public road and 'Y' sightline distances of 120m for road design speeds of 70kph and 160m for road design speeds of 85kph.
- 7.3.5. The Proposed Entrance Site Layout Map submitted with the appeal details the existing pillars and part of the existing wing walls of the bellmouth serving both entrances (the appeal site and Bramble Lodge) would be set back 1 metre to enable the provision of 70m sightlines in both directions from a 2.4m setback from the road edge. Having regard to a) the relatively straight road alignment to either side of the vehicular entrance bellmouth, b) the narrow width of the road at 3m which is too narrow for overtaking at speed and c) the relatively low volumes of traffic using the road, it is my view that the proposed 70m sightlines provided at the entrance would improve visibility



at the existing entrance bellmouth and that a relaxation of sightline distance requirements is acceptable in this instance. Given the limited number of additional vehicular movements the proposed development would generate, it is my view that the proposed development would not result in a traffic hazard or generate any road safety issues. I recommend, therefore, that the appeal should succeed in relation to the Planning Authority's second reason for refusal.

#### **7.4. Screening for Appropriate Assessment**

- 7.4.1. The closest Natura 2000 sites to the appeal site are the Rogerstown Estuary SPA (Site Code: 004015) and SAC (Site Code: 000208) which is located 2.7 km to the south and the Rockabill to Dalkey Island SAC (Site Code: 003000) located 3.7 km to the east. 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 the appeal, it is considered that the applicant does 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 applicant has 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 Rush and Lusk 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.

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Brendan Coyne  
Planning Inspector

03<sup>rd</sup> December 2021