



An
Bord
Pleanála

Inspector's Report ABP311435-21

Development	Erect house, garage, revised entrance, DWWTS.
Location	Carrigeen, Rathcoole, County Dublin.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD21A/0177
Applicant(s)	Naomi Hanlon
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party V Refusal.
Appellant(s)	Naomi Hanlon
Observer(s)	None
Date of Site Inspection	12 th February 2022
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site comprises 0.32ha and is located south of Rathcoole village on Windmill Hill Road in County Dublin. The site would be the 4th in a line of houses on individual sites to the east and the site adjoins Carrigeen Lane to the southwest. The site is in pasture and the roadside boundary is defined by a post and wire fence. The area is rural in character and there are significant views to the south from the public road fronting the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of a single storey split level house, domestic garage, re-use of an existing agricultural entrance to the public road, a secondary domestic effluent treatment system all at Carrigeen, Rathcoole, County Dublin.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission.

1. The proposed development is located on a substandard rural road which is inadequate in width and alignment, is without footpaths, public lighting and has extensive ribbon development. Therefore, the proposed development would endanger public safety by reason of traffic hazard.
2. The proposed development would generate additional traffic on a substandard laneway which would endanger public safety by reason of traffic hazard.
3. The proposed development would contravene Policy H20 in relation to the management of single dwellings in rural areas since the applicant has not demonstrated exceptional circumstances/need to live in this rural area.
4. The proposed development is located within the area covered by the Regional Spatial and Economic Strategy and the Dublin Metropolitan Plan which seeks to manage urban generated housing in areas under Strong Urban Influence. The proposed development would contribute to a proliferation of one-off

housing and thereby undermine the regional settlement strategy set out in the RSES and the DMP.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

3.2.2. Other Technical Reports

Water Services Section recommended requesting additional information in relation to disposal of surface water on site.

The **Environmental Health Officer** recommended a grant with conditions.

Roads Department report recommends refusal for traffic hazard.

4.0 **Planning History**

SD21A/0059 Erect house, garage, upgrade agricultural entrance and construct DWWTS. Permission refused for traffic hazard on a substandard public road, additional traffic on an unsuitable rural lane, contravention of settlement policy set out in South Dublin Development Plan, contravention of settlement strategy set out in the Regional Spatial and Economic Strategy (RSES) and the Dublin Metropolitan Plan (DMP).

ABP309797-21 Permission refused for a house on Carrigeen Lane for being contrary to the NPF Policy 19 in relation to the spread of one-off housing in the countryside.

5.0 **Policy and Context**

5.1. **National Policy – National Planning Framework**

5.2. Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

5.3. Policy Objective 19: 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.

5.4. **Sustainable Rural Housing Guidelines for Planning Authorities**

5.5. The Guidelines refer to persons considered as constituting those with rural generated housing needs being persons who are an intrinsic part of the rural community or working full-time or part-time in rural areas. The Guidelines refer to persons who are an intrinsic part of the community as having 'spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes'.

5.6. **Regional Policy**

5.7. **Eastern & Midland Regional Spatial & Economic Strategy 2019-2031**

5.8. RPO 4.80: Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.9. **South Dublin County Development Plan 2016-2022** ¹

5.10. The site is within an area zoned Rural 'RU' the objective for which is to protect and improve rural amenity and to provide for the development of agriculture. Residential development is open for consideration.

5.11. Section 2.5.0 refers to Rural Housing. The Plan states that 'It is the policy of the Council to restrict the spread of dwellings into rural and high amenity areas'

5.12. Policy H20 - Management of Single Dwellings in Rural Areas

5.13. Restrict the spread of dwellings in the rural 'RU', Dublin Mountain 'HA-DM', Liffey Valley 'HA-LV' and Dodder Valley 'HA-DV' zones and to focus such housing into existing settlements.

5.14. **Policy H21: Rural Housing Policies and Local Need Criteria**

5.15. It is the policy of the Council that in accordance with the Sustainable Rural Housing Guidelines DEHLG (2005) and Circular SP 5/08 Rural Housing Policies and Local Need Criteria in Development Plans: Conformity with Articles 43 and 56 (Freedom of Establishment and Free Movement of Capital) of the European Community Treaty, "persons who are an intrinsic part of the rural community" or "persons working full-time or part-time in rural areas" as described under Section 3.2.3 (Rural generated housing) of the Sustainable Rural Housing Guidelines (2005) shall be favourably considered in relation to rural housing.

5.16. **Policy H22 - Rural Housing in RU zone**

5.17. It is the policy of the Council that within areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances.

¹ a new development plan will not be adopted before end of August 2022.

5.18. H22 Objective - To consider new or replacement dwellings within areas designated with Zoning Objective "RU" (to protect and improve rural amenity and to provide for the development of agriculture) where:

- The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) OR
- The applicant has close family ties with the rural community.

5.19. **Natural Heritage Designations**

Not relevant.

5.20. **EIA Screening**

5.21. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. 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**

- The applicant has taken over the full-time management of the family farm and meets the criteria for rural houses set out in the Sustainable Rural Housing Guidelines.
- The application (see in particular drawing NG-GEO-03060 June 2017) demonstrates that the application meets the road safety criteria/sight distance of required by TII. The proposed development will not give rise to traffic hazard.
- The applicant proposes access from the main road fronting the site where sightlines are available, and no traffic hazard arises. There is no proposal to access Carrigeen Lane.

- There are several rural housing policies in the Development Plan. PolicyH22 refers to housing in areas zoned RU. Permission will be granted where the applicant can establish a genuine housing need in the area or has close family ties to the area.
- The applicant has submitted documentary evidence of her close ties to the area.
- The applicant is a farmer and should be allowed to live on her own land. Evidence is submitted demonstrating that the applicant is a farmer.
- Even if the application materially contravenes the County Development Plan Section 37(2) allows the Board to grant permission where Guidelines under section 28 of the Act would allow for such a case. In this case the Sustainable Rural Housing Guidelines supports the provision of houses in rural areas for persons who are an intrinsic part of the rural community and persons who work full time or part time in rural areas.
- The 4th refusal reason is unsustainable because the application is not urban generated but rather a rural generated application which complies with rural housing policy H22.

6.2. Planning Authority Response

- The appeal does not raise new issues.

6.3. Observations

- None

6.4. Further Responses

None.

7.0 Assessment

- 7.1. This assessment will address rural housing policy, traffic safety and settlement strategy.

7.2. Rural Housing Policy.

Policy Objective 15 in the **National Planning Framework** (NPF) seeks to support growth and arrest population decline in areas that have experienced low population growth or decline in recent while managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities. Policy objective 19 seeks, 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 ... having regard to the viability of smaller towns and rural settlements”.

7.3. The **Sustainable Rural Housing Guidelines** require (paragraph 2.1) that planning authorities distinguish the housing needs of rural communities from pressure for rural housing arising from overspill from urban areas. In developing rural housing policy which will guide rural housing development the Guidelines identify different types of rural areas. These are areas under strong urban influence, stronger rural areas, structurally weak rural areas and areas where clustered settlement patterns predominate. These areas are broadly identified in the Rural Area Types map attached to the guidelines, but it is left open to individual planning authorities to refine these broad categories within their administrative boundaries. The current site is within the rural area under strong urban influence cantered on Dublin city and stretching north/south along the east coast. These areas are described in the Guidelines as within the commuting catchment of large cities and towns, having a rapidly growing population and showing considerable pressure for development due to proximity to urban centres and major transport corridors.

7.4. The guidelines outline classes of persons, for whom applications for rural housing may be favourably considered, with rural generated housing needs as being persons who are an intrinsic part of the rural community or working full-time or part-time in rural areas. The Guidelines refer to persons who are an intrinsic part of the community as having ‘spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes’.

- 7.5. The planning authority in the present case have identified four landuse zoning areas within the county where it is the policy (Housing Policy 20 - Management of Single Dwellings in Rural Area) restrict the spread of dwellings in the rural "RU", Dublin Mountain 'HA-DM', Liffey Valley 'HA-LV' and Dodder Valley 'HA-DV' zones and to focus such housing into existing settlements. The current site is located in an area zoned RU. Rural housing applications in this zone are subject to objective/policy 22 wherein it is the policy of the Council that within areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances and to consider new or replacement dwellings within these areas where the applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) or the applicant has close family ties with the rural community.
- 7.6. The applicant states, *inter alia*, that she has lived in the area her entire life, went to school locally, lives with her parents close by on Windmill Hill 4 houses to the northwest along the public road from the application site, is employed in an equestrian facility on family land of which the application site forms part. Furthermore, the applicant is a qualified child minder and owns and operates a 18 ha farm with sheep and houses and runs an equestrian centre on the farm.
- 7.7. The overall framework for assessing applications for one-off rural housing is that set out in the NPF whereby in rural areas under urban influence applicants for one-off housing must show a demonstrable economic or social need to live in a rural area. This approach to one off housing is repeated in the Sustainable Rural Housing Guidelines which require planning authorities to distinguish between urban generated housing and rural generated housing applications – additionally the application site is in an area zoned in the development plan where it is an objective to restrict the spread of one-off housing and permit such housing only in exceptional circumstances. The applicant is from the area, has family connections to the area and manages an equestrian centre on a 18ha land holding and has a preference for rural living. The average size farm in the eastern region (CSO figure) is 42ha. The application does not establish that the equestrian landuse is such as to require full time residential accommodation and it may be noted that the house would additionally reduce the agricultural utility of the farm. I conclude that the applicant

has not demonstrated a social or economic need to live in a rural area sufficient to meet the tests set out in the policy framework outlined above.

7.8. Traffic Hazard.

7.9. I agree with the appellant that refusal reason 2 relating to traffic hazard does not apply because the proposed access from the site is onto the public road and not onto the adjoining laneway (Carrigeen Lane). It appears that the planner's report misquoted the Roads Department Report and refusal reason number 2 in error referred to access to Carrigeen Lane.

7.10. The public road fronting the site and onto which access is proposed is narrow, without a median line and has no footpaths, cycle paths or public lighting. It may be that a previous roadside boundary has been removed and repacked with a post and wire fence. Adjoining the application site to the southwest is Carrigeen Lane with a junction with the public road and beyond that there are several houses with individual entrances onto the road. Approaching site from the east and Rathcoole village are four houses all with individual access points. The planning authority's Roads Department reported that the proposed development would generate additional traffic on this rural road which is substandard in width and alignment and would endanger public safety by reason of traffic hazard.

7.11. The appeal makes the point that the drawings submitted (especially NBD-SK-001) demonstrate that the sightlines of 90m are available in accordance with TII requirements for entrances onto the public road where the 60km/h speed limit applies. The planning authority's roads department have reviewed this submission and states that the sightlines must be calculated from 2m from the edge of the road not along the road edge and otherwise queries the accuracy of the submitted drawings.

7.12. The principal point in this case is that the proposed development would give rise to an intensification of use of an existing agricultural entrance through the introduction of domestic related traffic turning movements onto a substandard rural road without footpaths, cycle paths, lighting or other facilities. Additionally, there is already multiplicity of entrances off the public road in the area and a minor road junction adjoining the application site. I agree with the planning authority in relation to the impact on public safety and recommend refusal accordingly.

7.13. **Settlement Strategy**

7.14. The planning authority in refusal reason 4 refers to the settlement strategy set out in the Eastern & Midland Regional Spatial & Economic Strategy 2019-2031 (RSES) and the Dublin Metropolitan Area Strategic Plan (MASP).

7.15. The MASP requires that the core strategies in the relevant City/County Development Plans are consistent with the NPF guidance. The RSES (regional policy objective 4.80) requires planning authorities to manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area. The application site is outside any designated settlement in the County Development Plan settlement hierarchy and therefore and having regard to the absence of a demonstrated need to live in this rural area, I consider that the proposed development materially contravenes the Eastern & Midland Regional Spatial & Economic Strategy 2019-2031.

7.16. **Appropriate Assessment**

7.17. Having regard to the nature and scale of the proposed development, which is a small-scale residential development, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend refusal.

9.0 Reasons and Considerations

1. It is an objective set out in the National Planning Framework 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 and, in rural areas under urban influence, 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. It is a requirement of the Sustainable Rural Housing Guidelines for Planning Authorities (Department of the Environment, Heritage and Local Government 2005) that planning authorities distinguish between urban generated housing need and rural generated housing need. It is an objective of the planning authority set out in the South Dublin County Development Plan 2016-2022 to restrict the spread of dwellings in areas zoned to protect and improve rural amenity and to provide for the development of agriculture. The application has not established a demonstrable economic or social need to live in this rural area and therefore, the proposed development would contribute to the encroachment of random rural housing in an area under urban influence, would militate against the preservation of the rural environment, and the efficient provision of public services and infrastructure and would materially contravene the provision of the National Planning Framework, and the current County Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would give rise to additional traffic turning movements on a substandard rural road which lacks a median line, public lighting or public footpaths and would therefore endanger public safety and be contrary to the proper planning and sustainable development of the area.

Hugh Mannion
Senior Planning Inspector

14th February 2022.