



An  
Bord  
Pleanála

## Inspector's Report ABP 311857-21

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<b>Development</b>	Dwelling and associated site works
<b>Location</b>	Ballinascorney Golf Club, Oldfield, Kilmashogue Lane, Rathfarnham, Dublin 16.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A-0733
<b>Applicant</b>	Roy Featherson
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refuse
<b>Appellant</b>	Roy Featherson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23/03/22
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site, which has a stated area of 0.83 hectares, is located on the western side of Kilmashogue Lane c. 2.6km to the south of Ballyboden and 400 metres to the south of the M50.

The site is roughly rectangular in shape and slopes down from south to north. It is bounded by the Ballinascorney golf course to the north and west with planting and a post and wire fence delineating the boundaries in part. A two storey, red brick dwelling bounds the site to the south with leylandii trees and hedging delineating the boundary. The roadside boundary is delineated by a stone wall and hedgerow with the site served by an existing access. The general area is characterised by one off housing with 5 no. dwellings within 300 metres to the north on the same side of the road. Access to the golf club is c. 200 metres to the north.

## 2.0 Proposed Development

Dormer dwelling to be constructed on the southern section of the site to be served by an effluent treatment system.

As per the Site Characterisation Report a depth of 1.4 metres to the water table was recorded in the trial hole. A  $T_{100}$  value of 12.33 was calculated.

Water supply via a bore hole is proposed.

The application is accompanied by landscaping proposals and soakaway design details.

The applicant is from the area. He owns and operates the Ballinascorney golf club.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission for the above described development for two reasons which can be summarised as follows:

1. The house design and layout on an elevated position would be a prominent and intrusive feature and would detract from the visual and rural amenities of

the area. The proposal would contravene section 8.2.3.6 , Appendix 11 (Rural Design Guide) and the zoning objective of the site.

2. The applicant has not demonstrated genuine need to reside in proximity to their employment and would be contrary to policy RES16 and the zoning objective for the site.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The applicant has not outlined to the satisfaction of the planning authority a genuine need to reside in proximity to their employment or a genuine need for an additional dwelling in the rural area. The golf club has been in existence for some time and has been operated by the applicants since 2014. In addition, the applicants' current place of residence has not been supplied.
- Noting the 11 metre fall in levels from the south to the north there are concerns regarding the elevated positioning of the dwelling which would impact on the visual and rural amenities of the area. The proposal would appear excessively prominent and result in an incongruous feature in the rural landscape.
- The applicant has not submitted an aboricultural impact assessment. Therefore, it is unclear what trees and hedgerows are to be removed in order to facilitate the new vehicular entrance. No detail has been given clarifying what is proposed for the existing agricultural gate. Noting the importance of the hedgerow and trees along Kilmashogue Lane which create the rural feel in the Kilmashogue Valley as highlighted in the development plan's Landscape Character Strategy, there are serious concerns about the creation of an additional entrance for the subject site. The extent of the driveway is considered unsuitable.
- The dwelling design does not comply with the rural design guide due to the complicated roof plan, extent of fenestration proposed and roof overhangs.
- The recommendations in the other technical reports (summarised below) noted.

A refusal of permission for two reasons recommended.

### 3.2.2. Other Technical Reports

Drainage Section has no objection subject to conditions.

Environmental Health Officer recommends further information on the proposed effluent treatment system.

Transportation Planning Section recommends further information on vehicular access, height of entrance walls and piers and sight lines.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

None.

## 4.0 Planning History

The planning history on the site is detailed in the area planner's report dating back to 2004.

## 5.0 Policy Context

## 6.0 Policy Context

### 6.1. National Planning Framework

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.

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.

## **6.2. Development Plan**

### **6.2.1. Dun Laoghaire Rathdown County Development Plan 2016**

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

#### **Policy RES16 – Management of One-off Housing**

It is Council policy to restrict the spread of one-off housing into the rural countryside and to accommodate local growth into identified small villages subject to the availability of necessary services. It is recognised that much of the demand for one-off housing is urban-generated and this can result in an unsustainable pattern of development, placing excessive strain on the environment, services and infrastructure. However, it is recognised that one-off housing may be acceptable where it is clearly shown that it is not urban-generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape and where there is a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives).

Within areas designated zoning Objective 'B' ("to protect and improve rural amenity") dwellings will only be permitted on suitable sites where:

- Applicants can establish to the satisfaction of the Planning Authority a genuine need to reside in proximity to their employment (such employment being related to the rural community), or
- Applicants can establish to the satisfaction of the Planning Authority a genuine need for an additional dwelling in the rural area and who are native to the area due to having spent substantial periods of their lives living in the area as members of the rural community and have close family ties with the rural community (in accordance with Section 3.2.3 'Rural Generated Housing' of the 'Sustainable Rural Housing Guidelines for Planning Authorities' (2005)).

Section 8.2.3.6 – refers to Rural Housing and reiterates the provisions of Policy RES16.

In all cases, the applicant shall submit the following details with planning applications for residential development within a rural area:

- A map showing all existing family owned properties and lands.
- A rationale as to why a particular site has been chosen for development.
- A strong justification in relation to the need for an additional dwelling in the rural area.
- A rationale clearly outlining why a family flat would not be suitable.
- Documentary evidence to show how the applicant complies with rural housing policy.
- A site suitability report in relation to waste water treatment.

Appendix 11 – Rural Design Guide

**Note:** The Dun Laoghaire Rathdown Development Plan 2022 -2028 was adopted on the 10/03/22. It will come into force on 21<sup>st</sup> April 2022. The following is noted:

Policy Objective PHP23 - Management of One-off Housing is comparable to policy RES16 of the existing plan.

Refer also to Chapter 12 - Development Management.

### **6.3. Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development comprising the construction of a new house and new wastewater treatment system there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **6.4. Natural Heritage Designations**

The nearest European Site is Wicklow Mountains SAC (site code 002122) c. 2.5 km to the south.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

The 1<sup>st</sup> party appeal against the planning authority's notification of decision to refuse permission can be summarised as follows:

#### **7.1.1. Compliance with Settlement Location Policy**

- The appellant is from the area with connections dating back a few generations.
- The family home is not available to the appellant.
- The golf course is the appellants' family business. It has been subject to anti-social behaviour and burglaries. The golf course needs a full time manager to live at the site to ensure the operation of the business and to provide additional security and any other needs.
- The business has extensive agricultural type machinery and tractors for property maintenance which the appellant is responsible for.

- The appellant needs to actively manage, maintain and upkeep the greens, drainage and hedges, trees and landscaping. It is a requirement for the appellant to be on the golf course for extensive periods of time.
- The appellants children attend local schools and clubs.
- The Board is requested to apply an occupancy condition.
- The dwelling will actually 'coalesce' and finalise development at this location and will achieve the 'sterilisation' of the lands at this location.

### 7.1.2. Dwelling Design

- It takes full advantage of the natural characteristics of the site. It is naturally sheltered by trees and hedgerows.
- The layout is considered optimum. The dwelling is to be set back into the hillside and lies parallel with the contours. The use of the split level form helps reduce the visual impact. It will have a minimal impact on the site in terms of cut and fill. It cannot be considered visually dominant. It will be sensitively landscaped.
- The design is considered acceptable and would not adversely impact on the character and visual amenity of the rural area.
- The design maximises natural light and avails of opportunities for passive heat and lighting.
- The external finishes reflect the character of the surrounding area.
- The site will be appropriately landscaped.
- The site is located within a small cluster of dwellings along the public road. The landscaping provides enclosure and privacy while maintaining the rural character of the cluster.
- Setting new dwellings within a backdrop of trees is one of the most successful means by which a dwelling can be absorbed into the landscape.

### 7.1.3. Other Issues

- The site has sufficient road frontage to provide safe sightlines.



- The traffic impact would be minimal.
- The proposal will have no adverse impact on biodiversity.
- The site can accommodate an effluent treatment system.

## 7.2. **Planning Authority Response**

It is considered that the appeal does not raise any new matter which, in the opinion of the planning authority, would justify a change of attitude to the proposed development.

## 7.3. **Observations**

None.

## 8.0 **Assessment**

### 8.1. **Introduction**

The Board is advised that at the time of writing this report the Dun Laoghaire Rathdown Development Plan 2016-2022 is the applicable statutory document and to which I have regard. The new 2022 development plan adopted by the Council comes into force on 21<sup>st</sup> April 2022. I note that the policies and provisions for the area as set out in the new plan are the same as those set out in the current plan.

I consider that the issues arising in the case can be assessed under the following headings.

- Compliance with settlement location policy
- House design and visual impact
- Other issues

### 8.2. **Compliance with Settlement Location Policy**

The site is within an area zoned B 'agriculture' in the current development plan and is identified as being under strong urban influence wherein policy RES 16 seeks to restrict the spread of one off housing. In view of the site's close proximity to Dublin city and centres of employment and its obvious attractiveness for urban generated housing demand this designation is considered to be entirely reasonable.

The National Planning Framework post-dates the said development plan and addresses rural housing. Of particular note National Policy Objective 15 seeks to support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over development whilst sustaining vibrant rural communities. In addition National Policy Objective 19 seeks to facilitate the provision of single housing in the countryside in areas under urban influence based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the siting and design criteria for rural housing in statutory guidelines and plans and to the viability of smaller towns and rural settlements.

On the basis of the above national and local policy provisions I submit that a high bar must be set in terms of demonstrating an applicant's need to have a house at this location based on genuine economic and/or social need so as to ensure the responsible management of the land resource in an area under pressure from one off housing.

The current development plan allows for a presumption in favour of applicants that have an genuine need to reside in proximity to their employment or arising from local social needs. The said plan is cognisant of the provisions of the Sustainable Rural Housing Guidelines and to which specific regard is had.

I note from the details accompanying the application that the applicant is from, and continues to have family ties in the area. He owns and manages the Ballinascorney golf club immediately adjoining and has done so since 2014. The golf club was originally set up by his father. He currently resides at an address in Dublin 24 approx. c. 10km to the east. He now wishes to reside in proximity to his place of employment in view of the role that he holds there and to provide for a level of security arising from anti-social behaviour.

Whilst I accept the applicant's intrinsic links to the area and thus may satisfy certain aspects of the eligibility criteria set out in both the Development Plan and the Sustainable Rural Housing Guidelines, I do not consider that the nature of the applicant's employment or his ties to the area can be interpreted as a need to reside at this location on the basis of an economic or social imperative. The applicant has and continues to undertake his management and maintenance role of the golf club when not residing in proximity to the site. The matter of providing additional security

by constructing a dwelling on the western extent of the golf course lands is not sufficient grounds on which to base an economic imperative. Thus, on the basis of the information on the file it cannot reasonably be concluded that there can be any entitlement bestowed on the applicant for a house on this site based on such economic or social need. I therefore recommend a refusal of permission on this basis.

### **8.3. House Design and Visual Impact**

The site is within the Kilmashogue Valley Landscape Character Area considered to one of the County's finest unspoilt valley landscapes, which is currently not protected by any particular status. The development plan states that any development in this valley should be carefully considered and be in sympathy with the existing landscape and that the rural character of the built fabric of the valley should be maintained along with the avoidance of suburbanisation. Any permitted development shall be vernacular in design, mass and scale and in accordance with the policies of the Development Plan.

I note that the immediate area of the site is characterised by one off housing comprising a mix of single, dormer and two storey designs of varying sizes and scale.

The proposed dormer dwelling is to be located on the higher, southern section of the site and due to the site falls from south to north, will avail of views to the north. I would concur with the planning authority that the house design is overly fussy in execution with a complicated roof plan, elevational treatments and fenestration. It would not be seen to comply with the principles of rural design guide as set out in Appendix 11. When viewed from the north it would be unduly prominent and obtrusive and would detract from the visual amenities of the area. I therefore concur with the planning authority's first reason for refusal.

### **8.4. Other Issues**

The site is to be served by an effluent treatment system. The Council's Environmental Health Officer notes that the trial hole assessment shows that the site has borderline depth of suitable unsaturated subsoil for the proposed polishing filter below ground level. Further consideration of the design of the proposed system to

include surface percolation tests are required as per section 5.4.3 of the EPA Code of Practice for Domestic Waste Water Treatment Systems 2021.

The site has sufficient road frontage to allow for an access with the necessary sightlines. Kilmashogue Lane was noted to be lightly trafficked on day of inspection.

#### *Appropriate Assessment – Screening*

The site is c.2km the north of Wicklow SAC.

Having regard to the nature and scale of the proposed development and the distance from the said designated site no appropriate assessment issues arise, and it is not considered 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.

## **9.0 Recommendation**

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

## **10.0 Reasons and Considerations**

1. Having regard to the location of the site within an area under strong urban influence as identified 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 policy to distinguish between urban-generated and rural generated housing need, and the location of the site within an area where housing is restricted to persons demonstrating a requirement for housing in accordance with policy RES16 and land use objective ‘B’ “To protect and improve rural amenity and to provide for the development of agriculture” of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and to National Policy Objective 19 of the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence, such as in the current case, which states that it is policy 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 considered that the applicant has not demonstrated that he

comes within the scope of the housing need criteria as set out in the Guidelines and that they have not demonstrated an economic or social need to live in this rural area in accordance with national policy and the Dún Laoghaire-Rathdown County Development Plan 2016- 2022. The proposed development, in the absence of any definable or demonstrable based need for a house in this rural area, 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. The proposed development would, therefore, contravene the Ministerial Guidelines, and would be contrary to national policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the topography of the site, and to the scale and design of the proposed dwelling, it is considered that the proposed development could not be effectively assimilated into the landscape and would, therefore, form a discordant and obtrusive feature on the landscape at this rural location. The proposed development would be contrary to the provisions of the Dún Laoghaire Rathdown County Development Plan 2016-2022, specifically Section 8.2.3.6 Rural Housing (ii) Design, Policy LHB2 Preservation of Landscape Character Areas. The proposed development would seriously injure the visual amenities of the area and, by itself and by the precedent the grant of permission for it would set, would militate against the preservation of the rural environment and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**March, 2022**