



An  
Bord  
Pleanála

## Inspector's Report ABP- 313098-22

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<b>Development</b>	Construction of dwelling, waste water treatment system with all associated site works.
<b>Location</b>	Rugged Lane, Astagob, Porterstown, Dublin 15.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FW21A/0258.
<b>Applicant</b>	Terry Treacy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party v Refusal of Permission
<b>Appellant</b>	Terry Treacy.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> September 2022
<b>Inspector</b>	Enda Duignan

## **Contents**

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
4.0 Planning History.....	7
5.0 Policy and Context.....	7
6.0 The Appeal .....	12
7.0 Assessment.....	14
8.0 Recommendation.....	22
9.0 Reasons and Considerations.....	23

## **1.0 Site Location and Description**

- 1.1.** The appeal site is located on the eastern side of Rugged Lane, c. 180m to the north of the junction of Rugged Lane and Lower Road. Rugged Lane is a narrow road with a steep slope, connecting Porterstown Road to the north and Lower Road to the south which runs adjacent to the River Liffey. The appeal site is situated approximately 2.5km to the north-east of the town of Lucan.
  
- 1.2.** The appeal site has an irregular shape with stated area of c. 0.27ha. The site is elevated relative to the public road and the site contains a significant slope from the north-east to the south-west. The site is greenfield in nature and a row of mature trees characterise the western site boundary adjacent to Rugged Lane.
  
- 1.3.** In terms of the site surrounds, dwellings are located to the north and south of the site with dwellings further to the west on Lower Road. The Castleknock Golf Club is located to the east of the site.

## **2.0 Proposed Development**

- 2.1.** The proposal seeks planning permission for construction of a split-level 2 storey dwelling, a new onsite wastewater treatment system and soil polishing filter, a new vehicular entrance and all associated site works.
  
- 2.2.** The proposed dwelling will be sited within the south-eastern corner of the site and will comprise an entrance hall, bedroom, store, WC and open plan kitchen/living/dining room at ground floor level and 3 no. bedrooms with 3 no. ensuite bathrooms at first floor level. The dwelling will have a contemporary architectural expression with varying roof pitches. Materials and finishes will comprise a combination of timber cladding, acrylic render and stone for the principal elevations with a zinc roof. The dwelling has a stated total floor area of c. 179sq.m.
  
- 2.3.** Access to the site will be via new vehicular entrance located at the northern end of the site's boundary to Rugged Lane. A new driveway will run parallel to the western site

boundary leading to a surface car parking area located on the western side of the proposed dwelling.

- 2.4. In terms of amenity space, a landscaped garden is proposed to be provided to the north, west and south-west of the dwelling. The dwelling is also proposed to be served by a number of ground and first floor level terraces and balconies. In terms of boundary treatments, a new timber post and rail fence and hedging is proposed along the western site boundary to Rugged Lane. The submitted plans identify the removal of a number of trees along this boundary to facilitate sight lines to the south of the vehicular entrance.
- 2.5. The proposal includes the provision of a wastewater treatment system and soil polishing filter bed which is to be located to the north of the proposed dwelling within the proposed lawn area.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Fingal County Council refused planning permission for the development for the following 4 no. reasons:

1. "The site is located within the 'HA' zoning objective under the Fingal Development Plan 2017 – 2023, the objective of which is to 'Protect and enhance high amenity areas' 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 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 Planning Authority is not satisfied that the application complies with the rural settlement strategy of the Fingal County Development Plan 2017-2023 including Objective RF32 which

relate to housing in the 'HA' zoning. It is considered that the proposed development would contravene materially objective RF32 of the Fingal County Development Plan, would be contrary to the Ministerial Guidelines and to the over-arching national policy in the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would necessitate the removal of prominent roadside trees in order to achieve sightlines, including the creation of a significant stretch of driveway which would result in a form of development that would be visually obtrusive, would be contrary to Objectives RF57, RF58 and RF59 of the Fingal Development Plan 2017-2023 and would erode the highly sensitive character of this high amenity zoned area. The proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the High Amenity zoning objective for the site, to the location of the site within the Liffey Valley SAAO and to the specific objective to preserve views identified in the Fingal County Development Plan 2017-2023, the application fails to comply with Objective RF60 which seeks to 'Ensure that any planning applications for a house within an area which has a Greenbelt or High Amenity zoning objective is accompanied by a comprehensive Visual Impact Statement' and would contravene Objectives NH51, which relates to development in High Amenity areas, and NH44 which relates to the Liffey Valley Special Amenity Area and would therefore be contrary to the proper planning and sustainable development of the area.
4. On the basis of the details submitted, and proximity of the site to the River Liffey, the Planning Authority is not satisfied that the proposed development would not be subject to flood risk. The proposed development would be prejudicial to public health and would be contrary to the Planning System and Flood Risk Management Guidelines for Planning Authorities which were issued to planning authorities under Section 28 of the Planning and Development Act 2000, as amended."

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Report**

The Fingal County Council Planning Report forms the basis for the decision. The report provides a description of the appeal site and surrounds and provides an overview of the proposed development and the policy that is applicable to the development proposal.

With respect to the principle of the proposed development and compliance with the rural settlement strategy, the Planning Authority in their assessment of the application indicates the only members of family actively involved in farming within the rural area will be considered for a rural house in areas of the County which have a HA zoning objective. The Planning Authority note that the Applicant has failed to submit details as to how they comply with the rural strategy and such, the principle of the proposal was not considered acceptable.

In terms of layout and design of the proposed dwelling, the Planning Authority raised no concerns and deemed this element of the proposal to be acceptable for the site.

In terms of visual amenity, the Planning Authority note that the site is located within a highly sensitive area which includes a specific objective to preserve views along Rugged Lane to the west of the site. Concerns were highlighted that a visual impact statement did not accompany the planning application as required by Objective RF60 of the current County Development Plan. Concerns were also raised with respect to the loss of trees and the requirement to remove a section of the existing embankment along the boundary with Rugged Lane to achieve the required sightlines to the south of the appeal site.

The Planning Authority also note that a Stage 1 Flood Risk Assessment is required to ascertain the level of flood risk to the subject site given the proximity of the site to the River Liffey.

A refusal of permission was recommended within the Planning Report for 4 no. reasons.

### 3.2.2. Other Technical Reports

Transportation Planning Section: Report received recommending further information.

Water Services Planning Section: Report received recommending further information.

### 3.2.3. Prescribed Bodies

Irish Water. Report received stating no objection to the proposed development subject to compliance with conditions.

### 3.2.4. Third Party Observations

One (1) no. observation was received from Ms. Mary Mooney of Rugged Lane, Lower Road, Dublin 20 in support of the proposed development.

## 4.0 Planning History

None known.

### 4.1. Enforcement History

None known.

## 5.0 Policy and Context

### 5.1. National Policy

#### 5.1.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design

criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

This will be subject to siting and design considerations. In all cases, the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

**5.1.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).**

Section 4.8 (Rural Places: Towns, Villages and the Countryside) of the RSES indicates that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth. Regional Policy Objective (RPO) 4.80 is relevant to the development proposal which notes that '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.

**5.1.3. The Planning System and Flood Risk Management, Guidelines for Planning Authorities, November 2009.**

**5.1.4. Quality Housing for Sustainable Communities, 2007 (Department of the Environment, Heritage and Local Government).**

**5.1.5. Sustainable Rural Housing Guidelines for Planning Authorities, 2005.**

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including



those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Circular Letter SP 5/08 was issued after the publication of the guidelines.

**5.1.6. Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.**

**5.2. Local Policy**

**5.2.1. Fingal County Development Plan, 2017-2023 (CDP)**

The site is within an area zoned 'HA' (High Amenity) of the Fingal County Development Plan (CDP), 2017-2023, the objective of which is 'Protect and enhance high amenity areas'. All lands within the immediate surrounds of the subject site are also zoned 'HA'. The appeal site is located within the Liffey Valley Special Amenity Area Order (SAAO) and there is an objective on Rugged Lane along the site frontage to 'Preserve Views'. The site is also situated within the Highly Sensitive Landscape designation and is located within the River Valleys/Canal landscape character area.

The current CDP notes that a High Amenity zoning (HA) has been applied to areas of the County of high landscape value. These are areas which consist of landscapes of special character in which inappropriate development would contribute to a significant diminution of landscape value in the County. Relevant policy for High Amenity areas include:

- **Objective NH51:** Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.
- **Objective NH52:** Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics, taking into account the various elements which contribute to its distinctiveness such as geology and landform,

habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquility.

Other policy objectives relevant to the development proposal include:

- **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 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 RF29:** Provide that the maximum number of dwellings permitted under any of the rural zonings will be less any additional house which has been granted planning permission to a family member since 19th October 1999.
- **Objective RF31:** Permit a maximum number of one incremental house for those who meet the relevant criteria set out in this chapter within areas with the zoning objective HA or GB plus one house for a person with exceptional health circumstances.
- **Objective RF32:** Permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.
- **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 RF56:** Presume against the opening up of a new additional vehicular entrance into the site of any proposed house, unless necessary in the interest of safety or because no viable alternative exists.
- **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.
- **Objective RF59:** Ensure that the design of new dwellings have regard to the Development Management Standards Chapter...
- **Objective RF59** Ensure that the design of new dwellings have regard to the Development Management Standards Chapter.
- **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.
- **Objective RF66:** Ensure that the requirements set out for on-site treatment systems are strictly complied with, or with the requirements as may be amended by future national legislation, guidance, or Codes of Practice.
- **Objective DMS52:** Ensure that the design and siting of any new house conforms to the principles of Design Guidelines for Rural Dwellings as outlined in Table 12.4

### 5.3. Natural Heritage Designations

There are no European designated sites within the immediate vicinity of the site. The nearest designated site is the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024), c. 11.9km to the east of the site. The 'Proposed Natural Heritage Area: Liffey Valley' is also located c. 500m to the west of the site.

#### **5.4. EIA Screening**

Having regard to the nature and scale the development which consists of the construction of a single house in an un-serviced rural 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**

The main points made can be summarised as follows:

- In response to Refusal Reason No. 1, the applicant outlines that the proposed development has been designed to ensure the protection and enhancement of the subject site and surrounding area which has been designated under the high amenity zoning objective in the current County Development Plan.
- Contrary to the assertions of the Planning Authority, it is argued that the subject site and surrounding area is not under '*strong urban influence*' and that this designation should not apply to the subject site and the surrounding area. This designation does not accurately describe the area of Rugged Lane.
- The site is an underutilised, vacant, infill site, which is set within a variety of established residential properties. It is considered by the appellant that the current designation is preventing the most efficient utilisation of the subject site, contrary to the aspirations of overarching National and Regional policy and the proper planning and sustainable development of the area.
- With the exception of the subject site and a select number of remaining/additional infill sites, there is very limited potential for future residential development along Rugged Lane. It is also recognised that the remaining sites are not of a sufficient scale to facilitate other uses effectively with the exception of infill, residential developments.
- The receiving natural environment allows for the proposed development on the subject site to be successfully assimilated into the subject site ensuring the protection and preservation of the area.

- The Board is invited to consider granting the proposed development in accordance with Section 37 of the Planning and Development Act and the proposal is consistent with National and Regional Planning Policy.
- In response to Refusal Reason No. 2, it is stated that the proposed development does not necessitate the removal of prominent roadside trees. The appeal submission is accompanied by an Arboricultural Assessment which indicates that the 3 no. trees required to facilitate the sight lines will not have a significant visual impact on the character and appearance of the immediate surrounding landscape and the local area. It is stated that these trees are of low and poor quality only and the site is situated within a well wooded area.
- The appellant also refers to a landscape masterplan and rationale report which has been submitted in support of the appeal which demonstrates comprehensive planting on site and along the subject site boundary which will serve to reinforce the natural character of the receiving environment.
- Revised plans have also been submitted which have had regard to the additional information request from the Planning Authority's Transportation Department.
- In response to Refusal Reason No. 3, a comprehensive Visual Impact Assessment has been prepared and is now submitted for consideration of the Board. It is stated that the scale, sighting and overall design of the development has been designed to integrate into the receiving environment in a sensitive manner with a *minimal to positive* impact on the area as demonstrated by the Visual Impact Assessment.
- In response to Refusal Reason No. 4, it is indicated that there is no risk of fluvial or coastal flooding with respect to the subject site. It is stated that this is due to the steep topography of the receiving landscape and the location of the subject site which is elevated by c. 40m above the River Liffey.

## **6.2. Planning Authority Response**

A response has been received from the Planning Authority dated 24<sup>th</sup> March 2022 which considers the appeal submission and indicates that they have no further comment to make regarding the proposed development.

### **6.3. Observations**

None.

### **6.4. Further Responses**

None sought.

## **7.0 Assessment**

The main issues are those raised in the grounds of appeal, the Planning Report and the reasons for refusal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy
- Visual Impact & Loss of Trees
- Flooding
- Waste Water Treatment & Drainage
- Appropriate Assessment.

### **7.1. Compliance with Rural Housing Policy**

- 7.1.1. As noted earlier in this report, the appeal site is located on lands zoned HA under the current CDP. In terms of housing in the countryside, the policy notes that the countryside is defined as those areas with the rural zoning objectives identified as Rural (RU), Greenbelt (GB), and High Amenity (HA). The current CDP highlights that the rural area of Fingal is considered to be an area under 'Strong Urban Influence' due to its proximity to Dublin City and the Metropolitan Area, and the resultant pressures for housing in the open countryside. Therefore, those with a rural-generated need for a house will be accommodated while those with urban-generated housing need will be directed to towns and villages. This is translated to Policy 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) and Policy 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.) of the

current CDP and there is, therefore, a presumption against one-off rural housing at rural locations except in cases where the applicant can robustly demonstrate they have a rural generated need for a house.

- 7.1.2. The policy notes that only members of families actively involved in farming within the rural area will be considered for a rural house in areas of the County which have a zoning objective HA. The Planning Authority in their assessment of the planning application indicate that the applicant had failed to submit details of how they comply with the rural strategy and as such the principle of the proposal was not considered to be acceptable at this location. I note that from a review of the application and appeal documents that there is no documentary evidence on file to establish that the applicant is a native of the rural area and a rationale has not been put forward which demonstrates that they have a rural housing generated need, i.e. that they are actively involved in farming in the local area. I note the applicant's address on the appeal documentation is identified as being Swords, Co. Dublin.
- 7.1.3. In response to Refusal Reason No. 1, it is argued that the subject site and surrounding area is not under '*strong urban influence*' and that this designation should not apply to the subject site and the surrounding area. The site is described by the applicant as an underutilised, vacant, infill site, which is set within a variety of established residential properties and the current designation is preventing the most efficient utilisation of the subject site, contrary to the aspirations of overarching national and regional policy and the proper planning and sustainable development of the area. It is contested by the applicant that the designation does not accurately reflect the development circumstances at Rugged Lane where in reality, a very limited development pressure is experienced.
- 7.1.4. In terms of regional and national planning guidance, the site's identified location in an area under strong urban pressure under the Development Plan is consistent with Sustainable Rural Housing Guidelines for Planning Authorities, 2005, which similarly identifies the site and its wider rural setting. I note that the Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031, under RPO 4.80 sets out that Local

Authorities shall manage growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable 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.

- 7.1.5. In relation to locations identified as being under strong urban influence the National Planning Framework, NPO 19, requires developments like this to demonstrate a functional economic or social requirement for housing need in areas under urban influence. With this being stated as a necessity. Whilst the applicant appears to have a strong desire as opposed to a need to live in this rural, this in itself does not override the public good necessity for such applications to meet local through to national planning provisions. These provisions seek to safeguard such rural locations from the proliferation of what is essentially a type of development that planning provisions seek to channel to appropriate serviced land within settlements where they can be more sustainably absorbed whilst safeguarding the rural environment from further diminishment of its character and predominant rural land use based function, i.e. agriculture.
- 7.1.6. In keeping with this, I note that National Policy Objective 3a of the National Planning Framework seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements. In addition, NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location. There are settlements within the wider area, including those with infrastructural services such as mains drainage and potable water through to other services as well as amenities, where there is capacity to absorb additional residential development in a sustainable manner than at this location.
- 7.1.7. On the basis of the information submitted at application and appeal stage, there is no specific, quantifiable and/or robust social need justification provided by the applicant on file to have a dwelling at this particular rural location, that cannot be met more



sustainably elsewhere. Including in nearby settlements such as villages and towns that can more absorb such developments in a manner that is consistent with local, regional and national planning provisions. At such locations, this type of development has less potential for adverse visual and environmental impacts to arise and would have less unsustainable economic demands on public infrastructure and services. Although I acknowledge that there are established dwellings within the surrounds of the site, I do not agree with the applicant that the surrounding area is not subject to development pressures. The site is a greenfield site, situated in a highly scenic area within close proximity of metropolitan Dublin, where a development of this nature would likely be highly sought after.

- 7.1.8. Therefore, to permit the proposed development sought under this application, would result in a haphazard and unsustainable form of development in a sensitive rural area and it would militate against the preservation of the rural environment that is sensitive to change. Further, it would undermine the settlement strategy set out in the current CDP that seeks to direct this type of development to appropriately zoned land within settlements and would therefore be contrary to Policy Objectives SS07 and RF32. For these reasons the proposed development would not accord with the HA zoning provisions of the site and would, therefore, be contrary to the proper planning and sustainable development of the area. This is reason in itself for the development sought under this application to be refused.

## **7.2. Visual Impact & Loss of Trees**

- 7.2.1. As noted, the appeal site is located on lands zoned HA and situated within the Liffey Valley SAAO. There is also an objective on Rugged Lane along the site frontage to 'Preserve Views'. Rugged Lane is a narrow road which slopes down towards Lower Road to the south. The appeal site contains a steep slope and the site's front (west) boundary is elevated relative to the existing roadway. The proposal seeks to utilise the existing site entrance and a new driveway is proposed to run parallel to the site's western boundary, leading to a surface car parking area to the west of the dwelling. A section diagram has been submitted which demonstrates the relationship between the driveway and the public road and I note that there is a level difference of c. 6m between

the surface level car parking area and the public road to the west. The split level dwelling follows the topography of the site and is proposed to be located in its south-eastern corner. I note that this is the most elevated portion of the site.

7.2.2. Mature trees and hedging characterise the boundaries of the appeal site and I note that there is minimal vegetation within the central portion of the site. In their assessment of the planning application, the Planning Authority raised no concerns with respect to the scale, design and siting of the proposed dwelling. I would concur with this sentiment, and I am satisfied the dwelling is designed to a high standard and is of a scale and form which does not detract from the character of the surrounding area. I am also satisfied that the size of the dwelling and its open space provision on site would afford a good standard of amenity to its future occupants and is in compliance with the applicable development management standards of the current CDP. Given the siting of the proposed dwelling relative to properties within the surrounds of the site, I do not consider that adverse amenity impacts would arise as a consequence of the proposed development. Notwithstanding the foregoing, the Planning Authority noted the lack of a Visual Impact Assessment and concerns were highlighted with respect to the loss of trees along the western site boundary to facilitate the proposed vehicular sightlines. It was determined by the Planning Authority that the removal of the 4 no. trees along Rugged Lane in order to achieve the sightlines will be significant and detrimental to the objectives of the Liffey Valley SAAO.

7.2.3. In support of the planning appeal, the applicant has submitted a landscape boundary plan, landscape masterplan and rationale report, an arboricultural report and tree survey and removal plan and a Visual Impact Assessment and associated photomontages. A revised site layout plan has also been submitted which the Applicant has noted has had regard to the commentary of the Planning Authority's Transportation Department. The proposal has been modified to now remove a section of the existing embankment directly to the south of the proposed entrance and the proposed boundary treatment has been reorientated at this location so that the timber post and rail fence will connect to the proposed entrance gates which are recessed from the front boundary.

7.2.4. The submitted arboricultural report indicates that the modified proposal necessitates the removal of a total 3 no. trees along the roadside frontage which comprise 2 no. early mature hawthorns, (T1 & T2) and 1 no. early mature ash (T3). Tree No. T1 has been classified as being of poor quality (Category U) and Tree Nos. T2 and T3 have been identified as being low quality (i.e. Category C). The arboricultural report indicates that the removal of Tree No. T1 should be carried out irrespective of the proposed development. In terms of mitigatory planting, the submitted landscape masterplan identifies additional tree planting along the roadside boundary and within the centre of the site. Additional comprehensive landscaping in the form of a wildflower meadow mix across the site and new boundary hedging is also proposed. A Visual Impact Assessment has also been submitted in support of the appeal and includes photomontages of the proposed development as viewed from the north and south of the site along Rugged Lane.

7.2.5. On the basis of the information submitted on file and having observed the existing trees on site, I am satisfied that the removal of a portion of the existing embankment and the 3 no. trees along this section of the roadside boundary would not unduly detract from the character of the Liffey Valley SAAO and would not impede or impact on existing and protected views along this section of Rugged Lane. In forming this view, I have had regard to the existing site conditions and vegetation, the proposed mitigatory planting and the Visual Impact Assessment which was submitted in support of the appeal. Notwithstanding the foregoing, the site is zoned HA and is located within a highly scenic area, where the policy is clear in that only members of families actively involved in farming within the rural area will be considered for a rural house. As indicated earlier in this report, the Applicant has failed to demonstrate that they qualify for a rural house at this location, and I therefore consider the proposed development to be contrary to the HA zoning objective and applicable policy of the current CDP.

### **7.3. Flooding**

7.3.1. In terms of flooding on site, Refusal Reason No. 4 was included by the Planning Authority given the basis of the information submitted on file and the proximity of the site to the River Liffey. The Applicant has indicated that there is no risk of fluvial or

coastal flooding with respect to the subject site due to the steep topography of the receiving landscape and the location of the subject site which is elevated by c. 40m above the River Liffey.

7.3.2. The Strategic Flood Risk Assessment for the current CDP recommends that any planning applications in flood risk areas are accompanied by a supporting appropriately detailed flood risk assessment. This is to ensure a conservative approach and that consideration is given to new development within Flood Zones where mitigation measures may still be required to ensure an appropriate level of flood protection and/or resilience. It is indicated that the detailed assessment should include at a minimum Stage 1 - Identification of Flood Risk. Where flood risk is identified a Stage 2 - Initial FRA will be required, and depending on the scale and nature of the risk a Stage 3 - Detailed FRA may be required.

7.3.3. Having reviewed the Strategic Flood Risk Assessment and associated mapping of the current CDP and the OPW Flood Maps, it is evident that the site falls outside a designated flood risk area. Having regard to the elevated position of the site relative to the River Liffey, its location outside a designated flood risk area and the topography of the site and surrounds, I am satisfied that the site would not be unduly susceptible to flood risk and the proposal is therefore considered to be acceptable having regard to flood risk management.

#### **7.4. Waste Water Treatment & Drainage**

7.4.1. The proposal seeks planning consent for the provision of a wastewater treatment system and soil polishing filter bed which is to be located to the north of the proposed dwelling within the proposed lawn area. The current CDP notes that the provision of well maintained quality waste water treatment infrastructure is essential to facilitate sustainable development of the County in line with the Settlement and Core Strategy while also protecting the environment and public health. Objective WT06 of the Plan is relevant to the development proposal and seeks to facilitate development in unserviced areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed waste water treatment system is in accordance with the

relevant EPA Codes of Practice, that being the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq 10$  (2021).

- 7.4.2. I note at planning application stage, the Planning Authority's Water Services Department raised no objection to the proposed development subject to compliance with standard conditions. Assessment of the wastewater treatment element of a one-off house in an unserviced area is a standard consideration. The site is in an area with a locally important aquifer of extreme vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 2.3m deep trial hole. Bedrock was not encountered at a depth of 2.3m. The soil was silt/clay with humus frq. pebbles in the upper 300mm, sandy silt/clay with frq. pebbles, cobbles and gravel below 1m and occ. boulders and sand below 1m. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent  $\leq 10$ ), 2021, identifies an R2<sup>1</sup> response category i.e. acceptable subject to normal good practice. Where domestic water supplies are located Nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised.'
- 7.4.3. The T-test result was 38.22. A P-test was also carried out giving a result of 28.67. I consider the results to be consistent with the ground conditions observed on site. Section 3.2 of the Site Characterisation Form states the soil was well aerated and unsaturated with a high sand content below 1.6m. Section 3.1 of the Site Characterisation Form states the ground condition was dry and firm under foot. Though the trial hole and percolation test holes had been filled in, the site comprises a sloped field with no indication of, for example, water ponding, outcrops etc. and I consider the results to be consistent with the ground conditions observed on site. Section 4.0 (Conclusion of Site Characterisation) of the Site Characterisation form states that, the site is suitable for development including a secondary treatment system and soil polishing filter and a tertiary treatment system and infiltration/treatment area all of which are discharging to groundwater. Section 5.0 (Selected DWWTS) of the Site Characterisation Form recommends that secondary treatment system (O'Reilly Oakstown Effluent Treatment System) and soil polishing filter be installed on

site as indicated on the proposed site layout plan. On the basis of the information on file and having visited the site, I am satisfied that proposal is acceptable and in accordance with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq 10$  (2021), subject to compliance with standard conditions.

- 7.4.4. In terms of surface water drainage, the planning application form and drawings indicate that the surface water disposal shall be via a number of soakaway located adjacent to the western site boundary. I note the Planning Authority's Infrastructure Section have raised no concerns in relation to surface water disposal on site and I am satisfied that proposals are generally acceptable subject to compliance with appropriate conditions. Should the Board be minded to grant permission for the proposed development, a condition should be included which shall require the Applicant to submit design and construction details to the Planning Authority for written agreement which comply with BRE Digest 365 "Soakaway Design".

## **7.5. Appropriate Assessment**

- 7.5.1. The nearest designated Natura site is the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024), c. 11.9km to the east of the site. I note the un-serviced nature of the site which means that the site does not benefit from access to public mains drainage. Despite these factors, I am nonetheless of the opinion that taking into consideration the modest nature, extent and scope of the proposed development and based on best scientific information alongside having regard to the documentation on file which includes a Site Characterisation Report, 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**

I recommend that the planning application be refused for the following reasons and considerations.

## 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 and within lands which are zoned HA (High Amenity) in the Fingal County Development Plan 2017-2023. Furthermore, the subject site is located in an area that is designated as an area 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 documentation submitted with the planning application and appeal, the Board is not satisfied that the Applicant has a demonstrable economic or social need to live in this rural area, or that the housing need of the applicant could not be met elsewhere. In this regard, the proposal is considered to be contrary to Objective RF32 of the Fingal County Development Plan 2017-2023, which seeks to ‘Permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances’. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in local, regional and in national policy for a house at this location. The proposed development would result in a haphazard and unsustainable form of development in an un-serviced area, it would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment that is sensitive to change. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

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Enda Duignan  
Planning Inspector

22/09/2022