



An
Bord
Pleanála

Inspector's Report

ABP-313383-22

Development	Demolition of existing garage, subdivision of family landholding and construction of a house, etc
Location	Oberstown, Lusk, Co Dublin, K45 EN25.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0041
Applicant	Emma McGlynn.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Emma McGlynn.
Observers	Edel O' Rourke Murtagh Patrick and Catherine Gallagher
Date of Site Inspection	3 rd May 2023.
Inspector	Lucy Roche

1.0 Site Location and Description

- 1.1. The appeal site is in the rural townland of Oberstown in north County Dublin, c1.5km northwest of the settlement of Lusk and c1km east of the M1 motorway. The site is served by a local county road that connects with the R132 Regional Road, c1.5km to the northwest.
- 1.2. The site has a stated area of 0.4ha and currently contains a detached single storey dwelling, and separate garage, set within a landscaped garden incorporating areas of hard standing and manicured lawn. The subject lands have road frontage (c43m) and vehicular access onto the local road to the north. The northern (roadside) site boundary comprises a low hedge which is separated from the local road by a wide grass verge. Site boundaries to the east, west and south consist of mature evergreen hedgerow/trees which enclose the site. The Ballough stream extends along the sites' southern boundary. The site is relatively flat, with a gentle slope in a southeasterly direction towards the stream.
- 1.3. Surrounding lands are predominantly in agricultural use. The area has a rural character with a strong prevalence of one-off residential development in the surrounding hinterland, including existing one-off rural dwellings located, in a linear fashion, to the east and west of the appeal site.

2.0 Proposed Development

- 2.1. Permission is sought to demolish the existing garage structure on site and to subdivide the 0.4ha family landholding to facilitate the construction of a new detached dormer style 3 no. bedroom dwelling to the side (southeast) of the existing bungalow.
- 2.2. The proposal also seeks permission for:
 - A new onsite WWTP and percolation area to serve the proposed dwelling,
 - The replacement of the existing septic tank with new onsite WWTP and percolation area to serve the adjoining family home.
 - Provision of shared access via exiting residential entrance.

- Provision of 2 no. within curtilage parking spaces to serve the proposed dwelling.
- Hard and soft landscaping works
- All associated site and engineering works necessary to facilitate the development.

2.3. The appeal documentation includes revised plans and elevations etc, detailing the following alterations to the design and layout of the proposed development:

- The relocation of the proposed dwelling, set back c3m from its original position (so that it is no longer positioned at the narrowest point of the site).
- The depth of the dwelling has been reduced from 19m to 13.9m, with a subsequent reduction in GFA from 157sqm to 134.4sqm.

2.4. Table 2.1 below provides a summary of the key aspects of the proposed development:

Table 2.1 – Development Details		
Area	Appeal Site	0.4ha to be subdivided into two c0.2ha site
Details of Existing and Proposed Dwellings:		
	Existing Dwelling	Proposed Dwelling:
Type / Design	Single storey 3-bed bungalow	Detached dormer style 3 no. bedroom dwelling. The design incorporates a single storey projecting porch to front elevation and dormer windows to front and rear.
Siting / Location	Positioned towards the centre of the site as viewed from the public road.	To the southeast of the existing bungalow, set back from the bungalows front building line.
GFA	c163sqm	Original - 157sqm (as stated)

		Amended – 134.4sqm
Height	c5.1m	6.825m
Finish	Painted render with element of stone to front elevation.	Painted sand/cement render with slate roof
Demolition	32.3sqm single storey garage	
Access / Parking	Existing entrance to family home with 90m sightlines as detailed on site layout plan. 2 no. in-curtilage parking spaces to serve the proposed dwelling.	
Services	Two, new on-site wastewater treatment systems to serve both existing and proposed dwellings	
Landscaping	Existing vegetation on site boundaries to be retained. New timber fence to subdivide the rear curtilage of both housing plots.	

3.0 Planning Authority Decision

3.1. Decision

3.2. Fingal County Council did by order dated the 24th of March 2022 decide to refuse permission for development at, Oberstown, Lusk, Co Dublin, for the following reason:

1. *The proposed development for a rural house on this restricted site in an area experiencing a significant amount of rural housing pressure would fundamentally alter the rural character of the area to a more low density suburban type of appearance and would introduce a development typology and pattern which is at odds with the 'RU' Rural Zoning Objective and Vision to protect the rural landscape character, to protect the value of the rural area and to promote the integrity of the landscape. The development as proposed would result in injury to the rural landscape character of the area, would contravene materially Objectives RF59 and DMS52 of the Fingal Development Plan 2017-2023, would materially contravene the 'RU' Zoning*

Objective of the site and would establish an unacceptable precedent. As such the proposal would be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Fingal County Council Planning Report forms the basis for the decision. The report has regard to the locational context and planning history of the site; local and national planning policy and reports received. The main issues raised in the assessment of the Planning Authority can be summarised as follows:

- The Planning Authority notes the location of the appeal site within lands zoned 'RU' (Rural) of the FDP, 2017-2023 (the operative plan at the time) and that the proposed development would be permitted in principle subject to compliance with Fingal's Rural Settlement Strategy.
- In terms of the applicant's rural housing need, the Planning Authority considers that the applicant has demonstrated compliance with the 15-year residency requirements as per paragraph (i) of Table RF03 of the FDP 2017-2023. The Planning Authority is satisfied that no other new rural dwellings were previously granted in the vicinity of the proposed development or the applicant's family homestead, to the applicant's family members since October 1999.
- The proposed development would constitute ribbon development. However, regard is had to Objective RF55 of the FDP 2017-2023, which allows for a relaxation in instances where permission is sought on the grounds of meeting the housing needs of the owner of the land, which adjoins an existing house of a member of his or her immediate family and where it is clearly demonstrated that no other suitable site is available.
- The Planning Authority notes the restrictive nature of the site and considers the siting of the proposed dwelling would appear 'shoehorned' into the receiving landscape and as such would be incongruous with the character of the rural area. The subdivision of the garden in the manner proposed, in order

to accommodate an additional dwelling at this location, would fundamentally alter the rural character of the area to a more low-density suburban type of appearance and would introduce a development typology and pattern which is at odds with the Objective of the 'RU' zoning to protect rural landscape character.

- The report raised no issues with respect to access, wastewater treatment, water supply or drainage / flooding.
- The report concluded with a recommendation to refuse permission as per the planning authority decision.

3.3.2. Other Technical Reports

Water services: No objection subject to condition

Transportation: No objection subject to condition. The report notes that while there is sufficient space for parking for both housing plots, manoeuvring of vehicles would be made too difficult if the parking areas were physically divided.

3.4. Prescribed Bodies

Irish Water: No objection subject to condition

Inland Fisheries: Recommends that appropriate precautions are taken to ensure comprehensive protection of local aquatic ecological integrity.

Note: With regard to the above it is noted that a 15m riparian buffer, free of development, is provided along the route of the stream.

3.5. Third Party Observations

None

4.0 Planning History

F21A/0350 Permission refused (2021) for the demolition of existing detached garage and the construction of a detached bungalow

etc. Permission was refused for three reasons as follows (1) the applicant failed to satisfactorily demonstrate their eligibility to be considered for a dwelling in the rural area of Fingal, (2) The proposed development by virtue of its scale, design and siting would be unsympathetic and inappropriate within the rural landscape and (3) Ribbon development.

F99A/1516 Permission refused (2000) for the construction of a single storey granny flat at the rear of the existing garage and to the side of the existing house. Permission was refused for two reasons as follows (1) The proposed granny flat development would lead to an increase in residential density of the area and be in conflict with the zoning objective for the area and (2) Backland development.

5.0 Policy Context

5.1. National Policy

5.1.1. Project Ireland 2040 - National Planning Framework (NPF):

Section 5.3 of the NPF refers to 'Planning for the Future Growth and Development of Rural Areas'. Under the heading of *Countryside*, it is stated '*It will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.*

National Policy Objective 19 includes: *.....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...'*

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. **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.

5.1.4. The following are also relevant:

- Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10), 2021.
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, November 2009.

5.2. Development Plan

5.2.1. The application was assessed by Fingal County Council in accordance with the policies and objectives of the Fingal County Development Plan 2017-2023. The Fingal County Development Plan 2023-2029 was adopted by Fingal County Council on the 22nd of February 2023 and came into effect on the 5th of April 2023. I have assessed the proposal under the provisions of the operative Development Plan, namely the Fingal County Development Plan 2023-2029.

5.3. Fingal Development Plan 2017-2023 (FDP 2017):

In light of FCC decision to refuse permission and the reasoning set out therein, the following Objectives of the Fingal Development Plan 2017-2023 are noted for reference:

- RF59 Ensure that the design of new dwellings have regard to the Development Management Standards Chapter with specific reference to the following: (a) Encourage new dwelling house design that is sensitively sited, demonstrates consistency with the immediate Landscape Character Type, respects the character, pattern and tradition of existing places, materials and built forms. (b) Protect existing trees, hedgerows, townland boundaries and watercourses which are of amenity, historic or biodiversity value and ensure that proper provision is made for their protection and management in future development proposals. (c) Promote sustainable approaches to dwelling house design and encourage proposals to be energy and carbon efficient in their design and layout. (d) Require appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.
- 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.

5.4. Fingal Development Plan 2023-2029 (FDP 2023)

5.4.1. Zoning: RU Rural

Objective: 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

Vision: Protect and promote the value of the rural area of the County. This rural value is based on:

- Agricultural and rural economic resources,
- Visual remoteness from significant and distinctive urban influences,
- A high level of natural features.

Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage.

5.4.2. Chapter 2 - Planning for Growth

Rural Towns and Villages Objectives:

CS077 *Rural Generated Housing:*

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 in Chapter 3

Sustainable Placemaking and Quality Homes and in Chapter 14
Development Management Standards.

Rural Clusters and Rural Area

Noting that rural areas within Fingal are categorised as being under strong urban influence, a key challenge is to ensure a balance between facilitating those with a genuine need to reside in rural Fingal while managing urban generated demand. Fingal's Rural Housing Policy is based on requirements for a demonstrable economic or social need to live in a rural area and ensure that siting and design adhere to statutory guidelines and design criteria. This approach follows on from the Rural Housing Guidelines 2005.

Relevant Policy:

CSP45: Rural Housing

In line with RPO 4.80, manage urban generated 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 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.

CSP46: Rural Settlement Strategy

Respond to rural-generated housing need by means of a rural settlement strategy which directs the demand where possible to Rural Villages and Rural Clusters and permit housing development in the countryside only for those people who have a genuine housing need in accordance with the Council's Rural Housing Policy and where sustainable drainage solutions are feasible.

Relevant Objective

CSO81: Rural Settlement Strategy

Implement the Rural Settlement Strategy contained in Chapter 3 Sustainable Placemaking and Quality Homes and associated Development Management Standards set out in Chapter 14

5.4.3. Chapter 3 Sustainable Placemaking and Quality Homes

Section 3.5.15 Housing in Rural Fingal

Fingal County Council is awaiting the publication of Guidelines before carrying out a full review of its rural housing policy. Accordingly, in order to protect the finite rural resources of Fingal and to ensure the sustainable growth and vitality of existing towns, Rural Villages and Rural Clusters, the Plan promotes policies necessary to restrict urban-generated 'one-off' housing and only facilitate genuine and bona fide cases for new residential development within the County's rural areas. Rural development in the first instance will be directed to Fingal's towns, Rural Villages and Rural Clusters.

Relevant Policy:

SPQHP45: Rural Housing:

Provide viable options for the rural community through the promotion of appropriate sustainable growth of the rural villages and clusters, balanced by carefully controlled residential development in the countryside.

SPQHP46: Rural Settlement Strategy

Respond to the rural-generated housing need by means of a rural settlement strategy which will direct the demand where possible to rural villages, rural clusters and permit housing development within the countryside only for those people who have a genuine rural generated housing need in accordance with the Council's Rural Housing Policy and where sustainable drainage solutions are feasible.

SPQHP50: Safeguarding Agricultural Identity

Ensure that the agricultural identity of North Fingal is safeguarded, promoting the rural character of the County and supporting the agricultural and horticultural production sectors.

Relevant Objectives

SPQHO50: Rural Community:

Ensure the vitality and regeneration of rural communities by facilitating those with a genuine rural generated housing need to live within their rural community.

SPQHO51: Promote agriculture and landscape value of the rural area:

Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the open countryside.

SPQHO53: Ribbon Development

In areas which are subject to either the RU, GB, or HA zoning objective, presume against development which would contribute to or intensify existing ribbon development as defined by Sustainable Rural Housing, Guidelines for Planning Authorities, 2005. A relaxation may be considered where permission is sought on the grounds of meeting the housing needs of the owner of land which adjoins an existing house of a member of his/her immediate family where it is clearly demonstrated that no other suitable site is available.

5.4.4. **3.5.15.3 Fingal Rural Settlement Strategy Rural Generated Housing Need**

The Fingal Rural Settlement Strategy serves to meet settlement needs which are the result of a genuine rural-generated housing requirement. Residential development in areas zoned RU, HA, GB and RC which is urban generated will be restricted to preserve the character of Rural Fingal and to conserve this important limited resource. The countryside for the purposes of this section of the Plan are those areas with the rural zoning objectives identified as Rural (RU), Greenbelt (GB) and High Amenity (HA). Rural-generated housing needs are considered to be the housing needs of people who have long standing existing and immediate family ties,

or occupations which are functionally related to the rural areas of the County and include:

- Persons who have close family ties to the Fingal rural community as defined in Table 3.5 paragraph (i)

Persons who have genuine rural-generated housing need will be considered for planning permission for a dwelling house in those parts of the open countryside which have zoning objective RU or GB

Relevant Objectives

SPQHO72 Maximum Number of Incremental Houses in **RU** Zoned Areas

Permit a maximum number of two incremental houses for those who meet the relevant criteria set out in this chapter and Chapter 14 within areas with zoning objective RU plus one house for a person with exceptional health circumstances plus one where exceptional farming circumstances prevail

SPQHO75 Houses Granted Permission in **RU**, HA or GB Zoned Areas

Require that any house which is granted planning permission in 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.

5.4.5. **Section 3.5.15.7 Layout and Design for Housing in Rural Fingal**

Policy

SPQHP55 Layout and Design of Rural Housing

Require that all new dwellings in the rural area are sensitively sited, demonstrate consistency with the immediate Landscape Character Type, and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design.

Objectives

SPQHO84: Compliance with Development Management Standards in Rural Areas:

Applications for dwellings in rural areas of Fingal will be required to demonstrate compliance with layout and design criteria set out in Chapter 14 Development Management Standards including the carrying out of an analysis/feasibility study of the proposed site and of the impact of the proposed house on the surrounding landscape in support of applications for planning permission.

SPQHO89: Proximity to the Family Home

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, where the applicant has land zoned HA within 2km from the family home and this arrangement is demonstrated not to be available to build, and the applicant has land zoned RU on lands within 3.5km of the family home, permit the new dwelling to be located on the RU zoned site which is within 3.5km of the family home, or, in the case of applications made under Objective SPQHO83 within five kilometres outside Noise Zone A and subject to the East / West of the M1 stipulation.

5.4.6. **Chapter 14 – Development Management Standards**

Sections 14.12.2 Design Criteria for Housing in the Countryside and 14.12.3 Design Guidelines for Rural Dwellings are relevant.

Objective DMSO41: New Dwellings in Rural Areas

Ensure that new dwellings in the rural area are sensitively sited, demonstrate consistency with the immediate Landscape Character Type, and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design. A full analysis/feasibility study of the proposed site and of the impact of the proposed house on the surrounding landscape will be required in support of applications for planning permission.

5.5. Natural Heritage Designations

The subject site is not located in or directly adjacent to any designate site. The closest European Sites, the Rogerstown Estuary SPA (Site code 004015) and SAC (Site Code 000208) are located c 4km to the southeast. The Ballough Stream, which flows along the site's southern boundary, connects with the Rogerstown Estuary c6km downstream providing a hydrological connection to the SAC/SPA.

5.6. EIA Screening

Having regard to the limited nature and scale of the development proposed which consists of the construction of a single house in a rural location, served by an on-site wastewater treatment and disposal system to current EPA standards, 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

- 6.1.1. This is a first party appeal lodged on behalf of the applicant, Ms. Emma McGlynn, against the decision of Fingal County Council to refuse permission for the development of lands at Oberstown, Lusk, Co.Dublin. The grounds of appeal, prepared by CWPA Planning and Architecture on behalf of the applicant, can be summarised as follows:

- Contrary to the determination of the Planning Department, CWPA Planning and Architecture, are of the considered opinion that the proposed development provides for a dwelling that has been sensitively designed to integrate into the subject and its surrounding landscape.
- In relation to the concerns of the Planning Authority's regarding the subdivision of the site, it is contended that the subdivision can only be perceived from the rear of the subject site and therefore will not materially alter the appearance or character of the surrounding area.
- In relation to the Planning Authority's statement that the *prevailing pattern of development in the area generally comprises detached dwellings with a commensurate width of road frontage*, it is contended that road frontage along the R132, is not utilised by existing dwellings and consists mainly of high grown hedgerows, with the exception of the applicant's family home. The lack of utilisation of road frontage by existing residents in the area should not prejudice the proposed development on the subject site.
- The proposed development is of a linear design, on a north-south axis, similar to the existing pattern of development on lands adjoining the subject site to the east and West.
- The principle of development on the subject site is in accordance with the provisions of the National Planning Framework which supports compact and sustainable growth, and which requires 40% of new housing to be built within infill and brownfield lands.
- The proposed development is consistent with the aspirations of the 'RU' Rural Zoning Objective and Vision pertaining to the site.
- The proposed development has sought to optimize the development potential of the subject site by providing an appropriate brownfield / infill opportunity by replacing the existing shed with proposed dwelling.
- The proposed development will provide for a high standard of architectural design and material specification.
- The proposed development will take advantage of the site's natural features to ensure consistency with the rural character and appearance of the

receiving environment. Natural boundaries are to be preserved and augmented as part of the proposed development providing valuable support to biodiversity.

- Documentation submitted with the appeal includes revised plans and elevations detail the following amendments to the design and layout of the proposed scheme:
 - The dwelling has been set back c3m, so that it is no longer positioned at the narrowest point of the site.
 - The depth of the dwellings has been reduced from 19m to 13.9m

6.2. Planning Authority Response

- The Planning Authority has reviewed the appeal documentation, including the amended drawings, and remains of the view that the proposal fails to comply with objectives RF59 and DMS52 of the FDP 2017 the 2023 and as such would materially contravene the 'RU' zoning objective of the site.
- They request that the Board uphold its decision to refuse permission.

6.3. Observations

Two observations have been submitted in support of this appeal. Both observations have been received from neighbouring land / property owners:

- Patrick and Caroline Gallagher
- Edel O'Rourke Murtagh

The issues raised in the observations can be summarised as follows:

- The proposed dwelling would be consistent with properties in the area and would fit into the landscape.
- The applicant and her family are key members of the community, the proposed development will help sustain the local community.

7.0 Assessment

7.1. 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:

- Layout, Design, and Impact on Rural Character
- Compliance with Rural Housing Need Policy
- Ribbon Development
- Siting / Design
- Wastewater Treatment
- 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.

7.2. Layout, Design, and Impact on Rural Character

7.2.1. The proposed development is in a rural area, zoned 'RU' Rural in the FDP 2023-2029. The objective and vision for the 'RU' zone seeks to protect the rural landscape, to protect and promote the value of the rural area and to promote the integrity of the landscape. In relation to the layout and design of rural housing, it is a stated policy of the FDA 2023-2029 (SPQHP55) to *require that all new dwellings in the rural area are sensitively sited, demonstrate consistency with the immediate Landscape Character Type, and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design*. The immediate landscape character type in this instance is that of a 'High Lying' agricultural area which has a high landscape value and high landscape sensitivity. Compliance with relevant development management standards set out in Chapter 14 Development Management Standards, is also required (Objective SPQHO84 relates). The design guidelines for rural housing are set out in Table 14.9 of the plan, the Guidelines state, inter alia, that *the location, siting, orientation, and the design of a proposed*

new dwelling in a rural location should be sensitive to its surroundings. The proposed development should be consistent with the character and appearance of the land, including the building's shape, height, and form, and with the ecology, natural features, and contours of the area, and the way in which these components combine.

- 7.2.2. The appeal site as it currently stands, comprises a detached single storey bungalow positioned centrally within the site (as it is viewed from the public road). The design and layout of the existing development is, I consider, typical of one-off housing in the countryside and is reflective of the prevailing pattern of residential development in the area, i.e., detached dwellings, on large plots (with a commensurate width of road frontage) and generous circulation areas.
- 7.2.3. The applicant is seeking permission to sub-divide the site and to construct a new dormer style dwelling to the side (southeast) of the existing dwelling (the applicant's family home). A shared access via the existing residential entrance is proposed along with new on-site domestic wastewater treatments systems to serve both the existing and proposed dwelling. Objective DMSO43 of the FDP 2023-2029 encourages new dwellings in the rural area to be sited at a location in close proximity to the family home. The plans states that such sites should be served by a single entrance for both the existing and the proposed development. The proposed development would accord with the above provisions. However, the question that arises in this instance, in light of the Planning Authority's decision etc, is whether the site can accommodate an additional dwelling in a manner that is consistent with its rural location.
- 7.2.4. The proposed dwelling is to be located to the side (southeast) of the existing bungalow. The area of land available for development to the side of the existing dwelling is somewhat restricted. The restricted nature of the site has influenced the design and layout of the proposed development, resulting in a dormer style dwelling with a much narrower form (c8m) than the existing single storey bungalow (c18m in width), and with limited circulation space to the east and west. Furthermore, it is noted that the front curtilage of the property is to be shared by both the existing and proposed dwellings, this is necessary to ensure that adequate on-site parking and

turning area is available for both properties (the report of the Transport Department is noted in this regard). While this arrangement may be acceptable in terms of traffic safety, it is, I consider, unusual in a rural context and has the potential to negatively impact the residential amenities of both properties.

- 7.2.5. The narrow plan form, and position of the proposed dwelling, set back and to the side of the existing dwelling, in my opinion gives the impression of a structure that is 'subservient' or ancillary to the existing dwelling, similar to a self-contained apartment or granny flat, rather than a standalone dwelling in the rural area. Overall, I consider the design and layout of the development to be more akin to a sub-urban type, infill development that is out of character with the prevailing pattern of development in this rural area. The proposed development and the precedent it would set for similar type development, would I consider, contribute to the suburbanisation of this rural area, classified as a rural area under strong urban influence in the FDP 2023-2029 and would thereby, alter the landscape character of the area. The proposed development would therefore be contrary to the 'RU' zoning objective.

7.3. Compliance with Rural Housing Need Policy

- 7.3.1. As previously noted, the appeal site is located within an area zoned 'RU' (Rural) in the Fingal Development Plan 2023-2029 (FDP 2023). Areas with the 'RU' zoning objective, together with areas zoned 'GB' (Greenbelt) and 'HA' (High Amenity), make up Fingal's rural countryside. 'Residential' use, as proposed, is permitted in principle within the 'RU' zone, subject to compliance with Fingal's Rural Settlement Strategy. It is noted that the application was first assessed by Fingal County Council under the Rural Settlement Strategy set out in the Fingal Development Plan 2017-2023, which was the operative plan for the area at the time. The FDP 2023-2029 came into effect on the 5th of April 2023 and is now the operative plan for the area. The Rural Settlement Strategy under the FDP 2023-2029 is broadly similar to its predecessor.
- 7.3.2. The FDP 2023-2029 notes that all rural areas within Fingal are categorised as being under strong urban influence. The plan seeks, under Policy CSP45, to manage

urban generated 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 demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. This approach accords with national policy and guidance, including the National Planning Framework. Accordingly, it is the policy of the FDP 2023-2029 (Policy SPQHP46) to direct rural housing demand, where possible, to rural villages, rural clusters and to permit the development of rural housing in the countryside, only for those people who have a genuine rural generated housing need in accordance with the Council's Rural Housing Policy and where sustainable drainage solutions are feasible. This policy is reflected in the stated objectives of the plan, including Objective SPQHO50, which seeks to *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 Objective SPQHO51 which seeks to *'Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the open countryside.*

7.3.3. The current FDP defines rural-generated housing needs as *the housing needs of people who have long standing existing and immediate family ties, or occupations which are functionally related to the rural areas of the County.* In accordance with the details provided in 'Supplementary Application Form for Planning Permission for a Dwelling in a Rural Area', submitted with the application, the applicant is seeking permission for a rural dwelling on the basis of 'Close Family Ties'. Close family ties are defined in Table 3.5 of the FCP 2023-2029, 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.*

It is an objective (Objective SPQHO81) of the FDP 2023-2029 to 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 3.5.

7.3.4. The FDP requires the submission of verifiable documentary evidence, including sworn affidavit, to demonstrate compliance with Table 3.5. The documentary evidence submitted in this instance comprises the following:

- A signed and notarised supplementary application form for planning permission for a dwelling in the rural area which indicates that the applicant is employed as a teacher in Rush, that they have not previously owned any residential accommodation and that they have lived in the family home at Oberstown for c27 years.
- A copy of the applicant's birth certificate
- A copy of a Land Registry folio which indicates that the applicant's parents have owned the appeal site (which includes the applicants family home) since c1994.
- Letters from schools and colleges attended which confirm the applicants' address at Oberstown, Lusk, County Dublin.
- A letter from the applicant's current employer, confirming the applicant's address at Oberstown, Lusk, County Dublin from 2018 to date.
- A letter of support from Man O' War, GFC
- An affidavit made by the applicant's father in support of the application.

7.3.5. In accordance with the information/ documentation submitted in support of the application and appeal, the applicant is seeking to build a new dwelling on lands within the curtilage of her family home, where she has resided for a period of c27 years. I note that the planning authority in their assessment of the application, were satisfied that no other new dwellings were previously granted in the vicinity of the proposed development or the applicants family homestead to the applicant's family members since October 1999.

7.3.6. On the basis of the foregoing, I am satisfied that the applicant has *close family ties* to the rural area of Oberstown, and that she has demonstrated compliance with criteria (i) under Table 3.5 of the current Fingal CDP, by reason of being a close member of a rural family who has lived in the family home in that rural area for at least 15 years. I am therefore satisfied that the applicant comes within the scope of the rural housing need criteria of the Fingal Development Plan 2023-2029.

7.4. Ribbon Development:

7.4.1. It is an objective of the FDP 2023-2029 (Objective SPQHO53) to presume against development which would contribute to or intensify existing ribbon development in rural areas, as this can promote the unsafe proliferation of vehicular entrances onto country roads, negatively impact on views and the character of the area, and reduce biodiversity, in particular, by loss of hedgerows.

7.5. Ribbon Development is formed by the development of a row of houses along a country road (resulting in five or more houses on any one side of a given 250m of road frontage). The proposed development, if permitted, would be the 6th house along a 250m stretch of road and would therefore constitute ribbon development. However, Objective SPQHO53 does allow for a dispensation where permission is sought on the grounds of meeting the housing needs of the owner of land which adjoins an existing house of a member of his/her immediate family, where it is clearly demonstrated that no other suitable site is available.

7.6. As previously established, I am satisfied that the applicant has demonstrated a need to reside in the rural area in accordance with Fingal Rural Settlement Strategy. The applicant is seeking permission to construct a new dwelling within the curtilage of her family home, in which she has resided for an extended period. The proposed dwelling is to be served by a shared access via exiting residential entrance and therefore would not contribute to a proliferation of entrances or the need for further hedgerow removal. In accordance with the details submitted in support of the application, the only lands available to the applicant are those lands outlined in blue on the submitted site location map / site layout plan (the proposed development site).

7.7. On the basis of the above, I am satisfied that dispensation permitted under Objective SPQHO53 is applicable in this instance and that while the proposed development would contribute to ribbon development at this location, it would not contravene the objectives of the Fingal Development Plan 2023-2029.

7.8. Wastewater Treatment:

7.8.1. The proposed dwelling is to be served by an onsite domestic wastewater treatment system (DWWTS) which is located to the rear (south) of the site. The application also includes proposal to replace the septic tank serving the existing dwelling on site, with a new DWWTS. The site is served by public mains water.

7.8.2. Two Site Characterisation Reports, both prepared by Michael Murtagh of BER Services, were submitted with the application. Both reports share the following background data:

Table 7.1 - Details from Site Characterisation Report	
Soil type	Till derived from Namurian rocks
Subsoil	Till derived from Namurian sandstones and shales
Aquifer Category	Locally important
Vulnerability	Extreme
Groundwater Protection Response	<i>R2 (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)</i>
Slope	Flat at percolation area (<1:20)
Groundwater flow Direction	Southeasterly
Ground Condition	Dry and firm underfoot
Potential targets at risk	Groundwater

7.8.3. Proposed Dwelling:

The Site Suitability Assessment for proposed dwelling, indicates that trial hole to a depth of 2.1m was dug on the 26th of April 2021. The trial hole encountered gravelly clay with considerable amount of cobbles and a few boulders, at a depth of c400mm below topsoil. The water table was encountered at a depth of 1.1m.

In relation to the percolation characteristics of the soil., a sub-surface percolation valve of 24.69 min/25mm and a surface percolation value of 19.72 min/25mm were returned. The report concludes that the site is suitable for the installation of a secondary treatment system and soil polishing filter.

7.8.4. Existing dwelling:

The Site Suitability Assessment for existing dwelling indicates that a trial hole to a depth of 2.1m was dug on the 18th of October 2021. The trial hole encountered 400mm of topsoil, 700mm of gravelly clay with some cobbles and 1000mm of clay with some cobbles. The water table and bedrock were not encountered in the trial hole.

In relation to the percolation characteristics of the soil., a sub-surface percolation valve of 12.72 min/25mm and a surface percolation value of 3.08 min/25mm were returned. The report concludes that the site is suitable for the installation of a secondary treatments system and soil polishing filter, as proposed.

7.8.5. Having regard to the site percolation test results, I am satisfied that it has been demonstrated that the site is suitable for on-site effluent disposal, and I note that no objections or concerns were raised in the assessment of the Planning Authority on this issue.

7.8.6. Having regard to the information on file and having inspected the area, I am generally satisfied that the applicant's proposals for the disposal and treatment of wastewater are acceptable. Should the Board be minded to grant permission for the proposed development, I would recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).

7.9. Appropriate Assessment.

7.9.1. A Screening report for Appropriate Assessment prepared by NM Ecology was submitted in conjunction with the planning application. The report notes that the appeal site is not located within or directly adjacent to any SAC or SPA. The Ballough Stream runs along the southern boundary of the site, and subsequently flows into the Rogerstown Estuary approx. 6.3km downstream. Rogerstown Estuary is designated as both an SAC and SPA. The specific qualifying interests / species and conservation objectives of the Rogerstown Estuary SAC and SPA are set out in Table 8.1 below.

Table 8.1: European Sites/Location and Qualifying Interests		
Site (site code) and Conservation Objectives	Distance from site (approx.)*	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
Rogerstown Estuary SAC (0208) To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	c4.1km to the southeast	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] ABP-311314-21 Inspector's Report Page 21 of 26 Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
Rogerstown Estuary SPA (4015) To maintain the favourable conservation condition of the Annex I	c4.1km to the southeast	Greylag Goose (Anser anser) [A043] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Shoveler

<p>habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		<p>(Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Redshank (Tringa totanus) [A162] Wetland and Waterbirds [A999]</p>
--	--	---

- 7.9.2. As per the details provided in the report, there will be no risk of habitat loss, fragmentation or any other any direct impact on any European Site. The report considers the small scale of the proposed development, the hydrological distance involved and the dilution capacity of both the stream and the transitional waters of the Rogerstown Estuary, and do not consider this to be a viable surface water pathway. Pathways via groundwater, land are ruled out due to distance. The report concludes that there is no risk of direct or indirect impacts on any Natura 2000 site, that it can be excluded on the basis of scientific information that the project, individually or in combination with other plans and projects, will have a significant effect on a European site and that Appropriate Assessment is not required.
- 7.9.3. During the construction phase there is potential for surface water runoff from site works to temporarily flow downhill and discharge to Ballough Stream which runs along the site’s southern boundary, and which ultimately discharges to Rogerstown Estuary (after a distance of c6km). In my opinion the separation distances between the appeal site and the Estuary mean that the water quality in the European sites would be unlikely to be negatively affected by any contaminants from site clearance and other construction activities, due to dilution and settling out over such a distance.
- 7.9.4. As with the construction phase, the separation distances involved, should be sufficient to ensure that the water quality at European sites would be unlikely to be negatively affected by any contaminants from site during the operational phase (habitation). All surface water run-off from the development is to discharge into the subsoil via a soakage trench complying with BRE 365. The site character

assessments indicate that the site is suitable for the on-site disposal of effluent. The proposed on-site disposal systems are set back a minimum of 15m from the stream. As per the Flood Risk Assessment submitted with the application, the site is not susceptible to flooding up to and including 0.1% AEP scenarios. In the unlikely event that flooding does occur the FRA notes that the proposed DWWTS's, which are fully compliant with SR866 and EPA Code of Practice 2021, would offer protection against the possibility of environment pollution. No significant impacts are likely to occur during the operational phase.

7.9.5. On the basis of the above, I am satisfied that this small-scale development would be unlikely to result in significant environmental impacts that could affect the Rogerstown Estuary SAC and SPA or other European Sites within the wider catchment area, during either the construction or operational phases. In relation to possible in-combination effects, I note that all recent extant and proposed planning applications in the area have been screened for appropriate assessment and where necessary Natura Impact Statements have been submitted and assessed. While I note that there a number of historical one-off rural dwellings and individual on-site wastewater treatment systems in the area, having examined the submitted site investigations report and suitability assessment, I am satisfied that the proposals for onsite wastewater disposal would be unlikely to have any significant effects that would result in any significant in-combination effects. I also note that the proposal includes for the upgrade of an existing septic tank system to a new on-site WWTP and percolation area to current EPA Standards.

7.9.6. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Rogerstown Esturaty SAC (site code 0208), Rogerstown Estuary SPA (site code 4015), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is therefore not required.

7.9.7. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

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.	<p>The proposed development for a rural house on this restricted site in an area experiencing a significant amount of rural housing pressure would fundamentally alter the rural character of the area to a more low density suburban type of appearance and would introduce a development typology and pattern which is at odds with the 'RU' Rural Zoning, the Objective and Vision for which seeks to protect the rural landscape character, to protect the value of the rural area and to promote the integrity of the landscape.</p> <p>The proposed development, and the precedent it would set for similar type development, would contribute to the suburbanisation of the rural area, and would result in injury to the rural landscape character of the area. The proposed development would therefore be contrary to the provisions of the Fingal Development Plan 2023-2029, namely Policy SPQHP55 and Objective SPQO84, would contravene the 'RU' Zoning Objective of the site and would be contrary to the proper planning and sustainable development of the area.</p>
----	---

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Lucy Roche
Planning Inspector

17th May 2023