



An  
Bord  
Pleanála

## Inspector's Report ABP-313772-22

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<b>Development</b>	House and domestic garage and associated site works.
<b>Location</b>	Rath Great, Naul, Co Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F22A/0140.
<b>Applicant</b>	Lorna Flynn.
<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>	Lorna Flynn.
<b>Observer(s)</b>	Noeleen Malone.
<b>Date of Site Inspection</b>	29 <sup>th</sup> November 2022
<b>Inspector</b>	Enda Duignan

## **1.0 Site Location and Description**

- 1.1.** The address of the appeal site is Rath Great, Naul, Co. Dublin. The site is located on the eastern side of R108, c. 2km to the south of the village of Naul. The site currently comprises an agricultural field and an existing agricultural entrance is located at the northern end of the site's frontage. An existing hedgerow forms the remainder of the roadside boundary to the R108. As the site forms part of a larger agricultural field, there is currently no formal eastern boundary. In terms of topography, the site is relatively flat which is consistent with the topography of sites within the surrounds. The appeal site has a stated area of c. 0.37ha.
- 1.2.** In terms of the wider area, the site has a rural character and existing one-off rural dwellings are located to the north and south of the appeal site. The remainder of lands within the surrounds appear to be predominantly in agricultural use.

## **2.0 Proposed Development**

- 2.1.** The proposal seeks planning permission for construction of a 1.5 storey dwelling, with a single storey projection to the rear. The dwelling will comprise an entrance hall, office, TV room, guest bedroom, utility, WC and open plan kitchen/living dining room at ground floor level. The first floor level of the dwelling shall comprise 2 no. bedrooms, a master bedroom with ensuite and wardrobe and a bathroom. The 1.5 storey portion of the dwelling has vernacular features including a pitched roof form and a natural stone finish. The single storey element to the rear has a contemporary architectural expression with part pitched/part flat roof form and with materials and finishes comprising a combination of a zinc cladding and a painted nap plaster finish for the principal elevations.
- 2.2.** The proposed dwelling will be positioned centrally within the site and will be accessed via a new recessed vehicular entrance at the northern end of the site's frontage. A new driveway will lead from the entrance to a car parking area to the front of the dwelling and the pitched roof domestic garage which is located on the dwelling's north-eastern side.

- 2.3.** The red line site boundary extends to the north and south along the eastern side of the R108. Works within this portion of the appeal site comprise the removal of existing trees to the north of the site and the removal of a portion of the existing hedgerow to provide sightlines in each direction.
- 2.4.** In terms of amenity space, a landscaped garden is proposed to be provided to the front, rear and sides of the proposed dwelling. A new post and rail timber fence will form the new rear (east) boundary of the appeal site and includes the provision of a new native hedging.
- 2.5.** The proposal includes the provision of a wastewater treatment system and soil polishing filter bed which is to be located to the south-east 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 2 no. reasons:

1. "The proposed development would constitute ribbon development and as such would further contribute to and intensify existing ribbon development along the regional road at this location. The proposal would therefore contravene materially Objective RF55 of the Fingal Development Plan 2017-2023 and the guidance set out in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005) relating to ribbon development, and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the extent of works required to facilitate sightlines, specifically the felling of at least 6 no. mature ash trees to the north and the setting back of hedgerow to the south of the proposed entrance, the proposal would adversely impact the rural amenity and character of the area. The proposal would therefore be contrary to Objectives RF57 and RF59 of the Fingal Development

Plan 2017- 2023 and would be contrary to the proper planning and sustainable development of the area.”

### **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 at local through to national level that is applicable to the development proposal. The report also sets out the planning history of the appeal site.

The Planning Authority note that the appeal site is located within lands zoned ‘RU’ (Rural) of the Fingal County Development Plan (CDP), 2017-2023. 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 considers that the Applicant has demonstrated compliance with the 15 year residency requirements as per Policy Objective RF39(i). The Planning Authority also note that the Applicant complies with Policy Objective RF61 of the CDP.

However, concerns are highlighted with the respect to impact of the proposed development on existing trees and the extent of proposed boundary works necessary to provide sightlines for the new vehicular access. In addition, concerns are raised that the proposed development would contribute and intensify existing ribbon development at this location. A refusal of planning permission is therefore recommended by the Planning Authority for 2 no. reasons.

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

Transportation Planning Section: Report received recommending additional information.

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

### 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

None.

## 4.0 Planning History

**F21A/0328:** Planning permission refused by the Planning Authority for development consisting of the construction of a storey and a half dwelling with single storey annex to rear, domestic garage, waste water treatment system, vehicular entrance to public road and all associated site works. The application was refused for the following 2 no. reasons:

1. The proposed development would constitute ribbon development and as such would further contribute to and intensify existing ribbon development along the regional road at this location. The proposal would therefore contravene materially Objective RF55 of the Fingal Development Plan 2017-2023 and the guidance set out in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005) relating to ribbon development, and would therefore be contrary to the proper planning and sustainable development of the area.
2. In its present format the proposed development by reason of inadequate sightlines would endanger public safety by reason of traffic hazard. The proposal would therefore be contrary to Objective DMS129 of the Fingal Development Plan 2017-2023 and contrary to the proper planning and sustainable development of the area.

### 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 'RU' (Rural) of the Fingal County Development Plan (CDP), 2017-2023, the objective of which is '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'. All lands within the immediate surrounds of the subject site are also zoned 'RU'. Lands further to the east are zoned 'HA' (High Amenity), the objective of which is to 'Protect and enhance high amenity areas'. There is an objective to 'Preserve Views' along the roadside boundary of the appeal site.

Policy objectives that are 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 RF30:** Permit a maximum number of two incremental houses for those who meet the relevant criteria set out in this chapter within areas with zoning objective RU plus one house for a person with exceptional health circumstances plus one where exceptional farming circumstances prevail.
- **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 RF39:** Permit new rural dwellings in areas which have zoning objectives RU, or GB, on suitable sites where the applicant meets the criteria set out in Table RF03.
- **Objective RF55:** 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.

- **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 River Nanny Estuary and Short Special Protection Area (SPA) (Site Code: 004158), c. 9.2km to the north-east of the site. The 'Proposed Natural Heritage Area: Bog of the Ring' is also located c. 3.1km to the north-east 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:

- The appeal submission indicates that the Applicant had made several attempts to engage in pre-planning consultation with the Planning Authority, but no feedback was provided. The Applicant notes that they have no other option but to appeal the decision to the Board for a fair and balanced review of the case.
- The Applicant provides a detailed summary of their social ties to this local area. It is stated that both the Applicant and their partner have strong intergenerational ties to the area and can be considered an intrinsic part of the local community. It is highlighted that neither the Applicant nor their partner own a dwelling and the site was gifted to them by their partner's father. It is stated that the Applicant's partner family home is located within 100m of the site and the appeal site is located c. 600m from the Applicant's homeplace.
- In response to Refusal Reason No. 1, it is stated that the pattern of development at Rath Great, Naul does not constitute ribbon development. The site is located on a regional road and is not on 'the edge' of any city or town as defined by the Sustainable Rural Housing Guidelines.
- The relaxation provided in Objective RF55 of the current CDP, specifically for the scenario where land adjoining an existing house of a member of the Applicant's immediate family should apply in this case. This is relevant in this instance as the appeal site adjoins the existing house of the brother of the Applicant's partner.

- The proposed development constitutes appropriate infill development which is a policy response suggested for stronger rural area by the National Spatial Strategy 2002.
- The Applicant refers to there being a precedent for similar patterns of development, in similar circumstances being reviewed, and being considered not to be in contradiction of national rural housing policies. The Applicant refers specifically to ABP-306447-20.
- With respect to Refusal Reason No. 2, the Applicant refers to the submitted arboricultural assessment. Commentary is provided with respect to the health and classification of the existing trees to the north of the appeal site. An updated report from the arborist (attached as Appendix 3) confirms that the trees are infected with ash dieback and have a limited lifespan.
- The Applicant refers to the specific guidance in terms of legal requirements (Teagasc) for the felling of trees with ash dieback. Given the recommendations of the consultant arborist, it is purported that these trees are deemed to represent a hazard for public road users in the near future. As a result, it is probable that the landowner will be required to remove these in the future given they have a duty of care towards public road users and the related public liability issues. In this regard, it is contended that the removal of these trees and their replacement with high quality semi-mature trees at a setback location should not represent a justifiable reason to refuse planning permission.
- With respect to the hedgerows that are proposed to be removed and replaced, it is contended that the proposed boundary works as detailed on the boundary works plan is fully compliant with Objective RF63 of the current CDP. Any hedge to be removed will be replaced with a new high quality native species hedge. It is anticipated that c. 25m of hedging would be removed and replaced as part of the boundary works plan. Furthermore, c. 200m of high-quality native hedging would be planted around the boundary of the site, the 4 no. existing trees along the southern boundary will be retained and c. 14 no. new semi-mature trees will be planted within the site (in addition to 6 no. new trees within the site of neighbouring property).

- It is stated that the consent letters obtained from neighbours provide full and adequate consent to carry out the boundary works detailed in the plan. It is noted that the support from neighbouring properties is a measure of the standing of the Applicant in the community, and the support of the people in the local area.
- Included within the appeal submission are the consultant planning report that accompanied the application (Appendix 1), 2 no arboricultural reports dated December 2021 and May 2022 (Appendix 2 & 3), and the birth certificate of the Applicant's partner with an address of Greatrath, Naul (Appendix 4)

## **6.2. Planning Authority Response**

A response has been received from the Planning Authority dated 11<sup>th</sup> July 2022 which considers the appeal submission and indicates that the dispensation referred to under Objective RF55 of the current CDP which relates to ribbon development does not apply in this instance given that the Applicant is not the owner of the land, and the land does not adjoin an existing house of a member of their immediate family. The Board is requested to uphold the decision of the Planning Authority.

## **6.3. Observations**

An observation has been received from Noeleen McKenna of Clann Mhuire GLG. A summary of the matters raised are included as follows:

- The observation has been prepared by the secretary of Clann Mhuire GLG. It is stated that Clann Mhuire GLG was founded in 1957 and is the largest and most prominent sporting organisation in the area.
- The observation sets out the challenges the organisation faces with respect to limited populations. This has direct implications on members and players and there are significant financial challenges facing the club as a consequence.
- Despite the challenges, the club has managed to survive and serve the local community for over 65 years and teams have represented the area with pride in Juvenile, Ladies and Men's Dublin GAA. This has been down to the commitment and dedication from a small population of people and includes Lorna Flynn (Applicant) and her partner Ciaran Whyte.

- It is stated that they both have been actively involved in the club (playing, coaching, fundraising etc.) and make a vital contribution to the club and community of the Naul. It is stated that it is the members of the club and the wider community, like Lorna and Ciaran that ensure the vitality of this local area and the locality cannot afford to lose them.
- In summary, Clann Mhuire GLG supports the application for a new dwelling at this location for Lorna Flynn and outline that it accords with local through to national policy.

#### **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
- Ribbon Development
- Vehicular Access & Sightlines
- Waste Water Treatment
- 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 RU (Rural) 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 current CDP notes that people who have a genuine rural-generated housing need will be considered for planning permission for a house in those parts of the open countryside which have zoning objective RU or GB. As per the completed 'Supplementary Application Form for Planning Permission for a Dwelling in a Rural Area', the Applicant is seeking permission for a rural dwelling on the basis of 'Close Family Ties' as defined in Table RF03, paragraph (i) of the current CDP which is detailed as follows:

- "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 19<sup>th</sup> 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:
  - o S/he is a close member of the family of the owners of the family home.
  - o 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".

7.1.3. Within the Planning Authority's assessment of the application, reference is made to the material submitted by the Applicant to demonstrate their qualification for a rural house at this location. This material included:

- Signed and notarised 'Supplementary Application Form for Planning Permission for a Dwelling in a Rural Area' confirming that the Applicant has never owned a home and has lived at the family home for a period of 24 years.

The form notes that the Applicant works full time from home on a permanent basis.

- A submission from the Applicant's planning consultant confirming the location of the Applicant's family home and confirmation that there are no lands available within the family landholding for the Applicant to construct a house.
- Copy of Applicant's birth certificate.
- Letters from national and secondary schools confirming the Applicant's attendance.
- Revenue correspondence showing Applicant's address.
- Third level institution correspondence showing Applicant's address.
- Financial statements showing Applicant's address.
- Letters of support from local clubs and business owner.
- A medical report confirming that the Applicant is a primary caregiver to her brother and as such, is required to live proximate to the family home.

7.1.4. On the basis of the information submitted in support of the application, the Planning Authority was satisfied that the Applicant had demonstrated compliance with the 15 year residency requirement. The Planning Authority also confirmed that no new rural dwelling was previously granted to the Applicant's family members in the surrounding area since 1999. Although the site is located c. 600m to the south of the family home, the Planning Authority considered the proposal to be in accordance with Policy Objective RF61 of the current CDP as there was no available sites within the vicinity of the family home and the appeal site is located within 2km of the family home. On the basis of the foregoing, the Planning Authority concluded that the Applicant had demonstrated their eligibility to be considered for a dwelling in the rural area of Fingal on the basis of close family ties.

7.1.5. The appeal documentation has elaborated further on the Applicant's ties to the local community. It is also confirmed within the submission that the Applicant's partner is from the local area and the appeal site forms part of his family's farm which was gifted to the Applicant and their partner. The appeal submission also notes that the Applicant's partner is restricted from obtaining planning permission for a dwelling

because 2 no. members of his family have already been granted planning permission in the rural area since 1999 as per the limitations as set out under the current CDP. It is evident from the application and appeal documentation that the Applicant has multi-generational ties to this local area and I am satisfied that the Applicant complies with criteria (i) under Table RF03 of the current CDP by reason that she is a close member of the family of the owners of the family home and has lived in the family home for at least 15 years.

7.1.6. Notwithstanding the above, regard must be had to the location of the appeal site c. 1.6km to the south of Naul village and in an area under 'Strong Urban Influence' due to its location in close proximity to Dublin City and major transport corridors, as detailed under Section 5.1 of the Development Plan. Such areas are defined in the 'Sustainable Rural Housing Guidelines for Planning Authorities' as rural areas exhibiting characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such areas and pressures on infrastructure such as the local road network. I also highlight what could be described as a proliferation of one off houses within the surrounds of the appeal site which I observed when inspecting the appeal site and its surrounds. Other urban areas in the vicinity include Ballyboughal (c. 5 km to the south), Balbriggan (c. 6.5 km to the north-east) and Skerries (c. 9 km to the east). Objective SS01 of the CDP seeks to 'consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance'. Objective SS07 seeks to 'direct rural generated housing demand to villages and rural clusters in the first instance and to ensure that individual houses in the open countryside are only permitted where the applicant can demonstrate compliance with the criteria for rural housing set down by the Development Plan.'

7.1.7. Objective RF08 seeks to 'strengthen and consolidate the built form of the Rural Villages, providing a viable housing alternative to the open countryside with the advantages of a rural setting'. Policy Objective 19 of the National Planning Framework



requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area. 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. Although the Applicant has a strong desire for a rural dwelling at this location, the Applicant has not demonstrated an economic or social need to live in this rural area. As detailed in the documentation submitted, the Applicant confirms that she is currently employed with 'Indeed' with an address at No. 80 Sir John Rogerson Quay, Grand Canal Dock, Dublin 2. Whilst the Applicant confirms they work from home on a permanent basis, it is my view that the nature and location of the Applicant's employment establishes that the Applicant's need for a house at this location is not directly related to the rural locality in which it is located. Such development would therefore be contrary to Objectives SS01, SS07 and RF08, as detailed above, which seek to direct housing development to towns and villages. I am not satisfied that the Applicant's housing needs could not be satisfactorily met in an established town or village in the surrounding area. Given that the Applicant does not demonstrate an economic or social need to live in this rural area, it is my view that the proposed development would be contrary to the Sustainable Rural Housing Guidelines for Planning Authorities (2005) and National Policy Objective 19 of the National Planning Framework. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. For this reason, I recommend that the proposed development be refused permission. Should the Board come to a different decision on this matter, I consider that an occupancy condition restricting occupancy of the house specifically to the Applicant should be attached to any grant of permission as set out in Policy RF33 of the current CDP.

## **7.2. Ribbon Development**

7.2.1. The appeal site forms part of an agricultural field, and an existing agricultural entrance is located at the northern end of the site's roadside boundary. A single storey dwelling is located to the immediate south of the appeal site with 2 no. additional dwellings located further to the south. A 1.5 storey dwelling is located to the immediate north of the site with another single storey dwelling located further to the north. As defined under the current CDP, "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 policy notes that it 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. Therefore, ribbon development is discouraged under the CDP and the policy notes that the Planning Authority will determine whether a particular proposal would create ribbon development, having regard to the following:

- The type of rural area and circumstances of the applicant.
- The degree to which the proposal might be considered infill development
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.
- Local circumstances such as planning history and normal planning considerations.

7.2.2. In their assessment of the planning application, the Planning Authority deemed the proposal to be contrary to policy Objective RF55 of the current CDP as the proposal would lead to 6 no. vehicular entrances serving one off dwellings on the eastern side of the R108 (within c. 250m of road frontage). Whilst Objective RF55 provides that a relaxation of this provision may be considered (i.e. 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'), the Planning Authority was not satisfied that this

dispensation applied to the Applicant given that they are not the owner of the land, and the land does not adjoin an existing house of a member of their immediate family.

7.2.3. Although the Appeal submission argues that the proposed development, if permitted, would be the fifth house within 250m of road frontage, the policy of the current CDP defines 'ribbon development' as 'five or more houses' and the proposal would therefore result in a form of development that would in fact contribute to and intensify existing ribbon development along this section of the R108. The impact of consolidating ribbon development at this location is also exacerbated given the requirement for the removal of trees and hedgerows on sites to the north and south to achieve adequate vehicular sightlines, an outcome which is discouraged under the current CDP. This is discussed in further detail in Section 7.3 of this report. Whilst the Applicant has noted in the appeal submission that the appeal site is the ownership of their partner's father and the site adjoins an immediate family member of their partner, I would concur with the Planning Authority that the relaxation afforded under Objective RF55 does not apply given the Applicant's current circumstances. Given the open, greenfield nature of the site which is currently in agricultural use and the pattern of development in the surrounding area, I do not consider that the proposal could constitute infill development as purported by the Applicant. In this regard, I consider the proposal to be contrary to Objective RF55 of the current CDP and planning permission should therefore be refused for the proposed development. Although the Applicant has referred to precedent cases in other Counties, I do not consider them to be directly relevant to the development proposal given the policy provisions within the current CDP that are applicable to the development proposal.

### **7.3. Vehicular Access & Sightlines**

- 7.3.1. In terms of vehicular access to the appeal site, a new recessed entrance is proposed at the northern end of the site's roadside boundary to the R108. Under Reg. Ref. F21A/0328, planning permission was refused for the following reason:
- In its present format the proposed development by reason of inadequate sightlines would endanger public safety by reason of traffic hazard. The proposal would therefore be contrary to Objective DMS129 of the Fingal

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

In order to respond to the concerns of the Planning Authority and overcome the previous refusal reason, the Applicant modified the site boundary so that it extends c. 145m to the north and c. 95m to the south of the appeal site. This was done to encompass works to the front boundaries of properties within the vicinity of the site which are required to facilitate the sightlines for the proposed development. The report of the Planning Authority's Transportation Planning section notes that 7 no. trees to the north of the entrance would have to be removed to facilitate the sightlines. To the south of the site, it is highlighted within this report that the setting back of the entire hedgerow by 3m (min) from the nearest roadside edge would improve sightlines and improve intervisibility between all road users. A request for additional information was therefore recommended by the Planning Authority's Transportation Planning section.

7.3.2. Notwithstanding the foregoing, the Planning Authority raised significant concerns with respect to loss of 6, or possibly 7 mature ash trees on neighbouring sites and the requirement for the front boundary hedgerow of the property to the south to be set back. It was considered that the proposal would adversely impact the rural amenity and character of the area, and as such would be contrary to Objectives RF57 and RF59 of the current CDP. Objective RF57 of the current CDP seeks to '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'. The Appellant refers to the arboricultural assessment that was submitted with the planning application and is now included within Appendix 2 of the appeal submission. In support of the planning appeal, the Applicant has also enclosed a supplementary report from the arboricultural consultant which they state confirms that the trees in question are infected with ash dieback and have a limited lifespan. The following commentary of note was included within the arboricultural report:

- 'On Wednesday 25 May 2022 I carried out a second site visit, to establish if there were any symptoms to confirm whether the trees are infected by the fungal pathogen.

Given that the trees were now in leaf, it was clear during this assessment that some of the trees were showing symptoms of ash dieback. The main symptom observed was the dieback of small branches in the upper canopy of the tree. The dieback observed is not at an advanced stage but it will impact their useful life expectancy and make them vulnerable to more aggressive secondary infections. In addition to this, Deadwood, broken branches, and bacterial canker were also observed on the trees during the site visit’.

- 7.3.3. As per the foregoing extract, it is not clear either how many, or which of the trees are infected with ash dieback from the information submitted on file. The report states that some of the trees were showing symptoms of ash dieback but importantly, the report does not conclusively confirm this point or clearly identify the trees that are affected. The report also notes that the dieback observed was not at an advanced stage. Within Chapter 5 (Layout and Design for Housing in the Countryside) of the current CDP, it is stated that the retention of trees and hedgerows is critical in protecting the positive attributes of landscape character and heritage features and providing for an attractive living environment. From my inspection of the site, I note that the trees were not in leaf. Notwithstanding this, it is evident that the existing trees provide a valuable contribution to the rural character of this area. Whilst I am cognisant of the Teagasc legal requirements for felling trees with ash dieback, I share the concerns of the Planning Authority with respect to the loss of these trees and I do not consider their removal to be warranted in this instance. This is particularly relevant given the proposal fails to accord with Objective RF55 of the current CDP (ribbon development) and it is my view that the proposed development would be contrary to the Sustainable Rural Housing Guidelines for Planning Authorities (2005) and National Policy Objective 19 of the National Planning Framework as outlined earlier within this report. In this regard, I consider the proposal to be contrary to policy Objectives RF57 and RF59 of the current CDP and the proposed development should therefore be refused planning permission.

#### **7.4. Waste Water Treatment**

- 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 south-east 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). However, I note that the site was examined on 22<sup>nd</sup> March 2021 as per the Site Characterisation Form. Therefore, the Code of Practice for Waste Water Treatment and Disposal System Serving Single Houses (i.e.  $\leq 10$ ) can be used for site assessments and associated installations commenced before 7<sup>th</sup> June 2021.
- 7.4.2. 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 poor aquifer of moderate vulnerability. The Site Characterisation Form notes that groundwater was encountered in the 2.1m deep trial hole. Bedrock was not encountered at a depth of 2.1m. The soil was silt/clay in the upper 600mm and gravelly clay with frequent cobbles below 600mm. There was also a reference to mottling at 1.9m below ground level. Table E1 (Response Matrix for DWWTs) of the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent  $\leq 10$ ), 2021, identifies an R1 response category i.e. Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP).
- 7.4.3. The T-test result was 51.80. A P-test was also carried out giving a result of 29.28. I consider the results to be consistent with the ground conditions observed on site and

the ground condition was dry and firm underfoot. Though the trial hole and percolation test holes appear to have been filled in, this area of the site comprises an agricultural field with no indication of, for example, outcrops etc. Some water ponding was present upon inspecting the site. However, I note that this was following a period of rainfall. Section 4.0 of the Site Characterisation Form indicates that the site is suitable for a 'packaged wastewater treatment system and polishing filter. Section 5.0 (Recommendation) of the Site Characterisation Form recommends that an O'Reilly Oakstown Environmental Ltd. 6 PE BAF System and soil polishing filter (90sq.m.) be installed on site. Overall, 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 2009 Code of Practice for Waste Water Treatment and Disposal System Serving Single Houses (i.e.  $\leq 10$ ).

## **7.5. Appropriate Assessment**

- 7.5.1. I note the un-serviced nature of the site which means that the site does not benefit from access to public mains drainage. Despite this, 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, wherein it is the policy to distinguish between urban-generated and rural-generated housing need. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. On the basis of 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. Furthermore, the Board is not satisfied that the Applicant’s housing needs could not be satisfactorily met in an established smaller town or village/settlement centre.

2. The proposed development would contribute to and intensify existing ribbon development along the regional road at this location. In this regard, the proposed development is considered to be contrary to Objective RF55 of the Fingal Development Plan, 2017-2023 which sets out specific policy with respect to ribbon development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. Having regard to the extent of works required to facilitate sightlines, specifically the felling of at least 6 no. mature ash trees to the north of the appeal site and the setting back of hedgerow to the south of the proposed entrance, the proposed development would adversely impact the rural amenity and character of the area. The proposal would therefore be contrary to Objectives RF57 and RF59 of the Fingal Development Plan 2017- 2023 and would be contrary to the proper planning and sustainable development of the area.

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Enda Duignan  
Planning Inspector

05/12/2022