



An
Bord
Pleanála

Inspector's Report

ABP-314914-22

Development	Construction of a house and all associated site works.
Location	The Grange, Ballyboughal, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0403
Applicant(s)	Naul Road Development Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Naul Road Development Ltd
Observer(s)	None
Date of Site Inspection	02 nd of June 2023.
Inspector	Karen Hamilton

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1.0 Site Location and Description

1.1. The site is an infill site, located to the south of Ballyboughal, Fingal, Co. Dublin. The site is accessed from the R108, a regional route which extends north from Swords. There is an existing access from the R108 into the site which serves a dwelling to the east of the site and other lands to the rear, west of the site. The site is surrounded by a large block wall and the access is currently gated. Access into the lands to the rear is also restricted.

2.0 Proposed Development

2.1. The proposed development would comprise of the following:

- Construction of a house and all associated site works

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for three reasons set out below:

1. The proposed development would result in an intensification of a shared access road between a residential and agricultural use where the access has inadequate sightlines onto the R108 and would endanger public safety by reason of traffic hazard. As such, the proposed development if permitted would materially contravene DMS126 of the Fingal Development Plan 2017-2023 and would constitute a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the existing pattern and density of development in the area, the edge of the village location of the site, and the backland nature of the site and the lack of connectivity to the village, the proposed house would constitute undesirable backland and piecemeal development, which would be out of character with the prevailing pattern of development for the village and would be contrary to Objective PM18 and DMS32 and the Ballyboghil Village Development Framework Plan and Design Guidance 2012. Furthermore, in the absence of pedestrian and cycle infrastructure at this location, the

proposed development is largely car dependent and would promote unsustainable transport modes. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.

3. The submitted Flood Risk Assessment fails to adequately consider the existing stream which flows to the south of the site and as such flood risk events cannot be ruled out. In the absence of a sufficiently detailed Flood Risk Assessment, the proposed development would be prejudicial to public health. In the absence of a detailed flood risk assessment the Planning Authority cannot conclude that the proposed development will not cause direct or indirect impacts on any Natura 2000 sites as the stream to the south of the site has hydrological links to the Natura 2000 network.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and is summarised as follows:

Principle of development

- There is a substantial amount of planning history on the site.
- There is a permission to upgrade the entrance on the site although this was not linked to any use, only to upgrade a substandard access.
- The site is within the Ballyboughal Village.
- Although the site is an underutilised infill, there needs to be a balance between protecting the amenities, privacy, and established character.
- The site is on the edge of the LAP and this has expired.
- Objective DM32 of the CDP does not support gated communities.
- The proposed dwelling is not reflective of a rural dwelling and does not contribute to the special identify and local distinctiveness of the village.
- It is not considered the site is considered an infill development.

Transport Considerations

- The site is within the 50km/hr speed limit.
- Sightlines required under DMURS include 45m either side, 2.4m from the edge of the road, however the consultants liaised with the council to state that 70m would be provided.
- Ambient speeds at this location are higher than the 50km/hr and this is considered a transition zone.
- There is no proposal for pedestrian connectivity into the village, the closest footpath is 150m to the north.
- The proposal represents an intensification of an agricultural and residential entrance.

Water Services

- The Flood Risk Assessment rules out pluvial, fluvial and coastal flooding.
- The stream along the development site to the south has not been fully considered.

3.2.2. Other Technical Reports

Water Services: Request for additional information and Stage 1 Flood Risk Assessment.

Transport Planning Section: No support for the proposal although additional information requested should permission be granted.

Parks and Green Infrastructure Division: No objection subject to conditions.

3.3. Prescribed Bodies

Uisce Éireann: No objection subject to conditions.

Dublin Airport Authority (daa): No objection to proposal.

Irish Aviation Authority (IAA): No objection to proposal.

3.4. Third Party Observations

One third party observation received which refers to the following:

- The site does not represent sequential development outwards from the village.
- The proposal does not comply with the Ballyboughal LAP.
- The proposal will lead to a loss of privacy on the adjoining dwelling.
- Previous refusal related to the access into the site.
- The surface water strategy should ensure no flooding along the road because of flooding (photos of flooding along the R108).

4.0 Planning History

4.1.1. Subject Site

F22A/0239

Permission granted for alterations to the site entrance and piers to allow for increase sightlines, the relocation of the ESB pole and other associated development, from the shared entrance into the site from the R108.

F22A/0071

Permission refused for an infill development at the site for 3 no detached two-bedroom dwellings having regard to:

1. Inadequate sightlines
2. Impact on the rural village and absence of pedestrian/cycle infrastructure.
3. Inadequate Flood Risk Assessment.

F17A/0156

Permission refused for a dormer bungalow and ancillary works for having regard to:

1. Inadequate sightlines

PL06F.228520 (F08A/0035)

Permission refused for a dormer bungalow and associated works having regard to:

1. The impact on the character of the rural village and the need to serve local needs in accordance with approved action area plans.

5.0 Policy Context

5.1. Fingal County Development Plan 2023-2029

The site is located on lands zoned as RV, Rural Village, where it is an objective to *“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”*.

Ballyboghil Rural Village

Section 3.5.15.1: Rural Villages. The rural settlement strategy supports the growth of rural villages in line with the growth levels set out under the Housing Strategy

Objective SPQHO56 – Rural Villages

Facilitate appropriate development within Rural Villages subject to compliance with the following:

- i. The scale of new residential development shall be in proportion to the pattern and grain of the existing settlement and shall be located within the defined development boundary.
- ii. Encourage and promote compact growth within Rural Villages including infill, brownfield development together with redevelopment of derelict/underutilised properties.
- iii. All development shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness for the settlement.
- iv. New commercial development should be centrally located within the village and contribute positively to the streetscape and public realm.
- v. Encourage new community and social facilities in conjunction with residential development.

Gated Communities

Objective DMSO30 – Gated Communities

- Prohibit proposals that would create a gated community for any new residential developments.

Masterplan

Table 2.1: Schedule of Masterplans to be commenced over the plan period.

- Ballyboghil (MP 3.B)

Policy CSP7 – Masterplans

Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.

5.2. Natural Heritage Designations

The site is located c. 5.2km to the west of the Rogerstown Estuary SAC (site code 000208) and Rogerstown Estuary SPA (site code 004015).

5.3. EIA Screening

The proposed development includes the construction of one dwelling on an infill site within a rural village. The site is surrounded by similar types of dwellings and there is an access road into the site.

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive 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 grounds of appeal are submitted by the applicant in relation to the planning authority refusal. The submission provides a background on the planning history of the site and surrounding area, the national and local policies on development in rural villages. The response to the reasons for refusal are summarised below:

6.1.1. Reason for refusal No 1

- The access is no longer used as an agricultural access and has not been used for some time.
- The sightlines are acceptable as the site is within the 50km/hr zone which begins c.210m to the south.
- The sightlines have been provided in line with the SSDs distance in Table 4.2 of DMURS.
- The applicant is the same applicant who has permission to upgrade the entrance.

6.1.2. Reason for refusal No 2

- The pattern of development in vicinity varies significantly.
- The development plan encourages infill/backland development.
- There is no reasonable reason for the proposal to be refused.
- The dwelling would not conflict with the pattern of development in the vicinity.
- There is no cycle infrastructure in the village.
- The applicant is happy to pay a contribution towards the provision of footpath into the village.
- The provision of a footpath into the village is unfair.

6.1.3. Reason for refusal No 3

- The site is not located within a flood risk area.
- There are no relevant floods in the vicinity.
- The applicant is happy with a condition requiring the FFL of the house to be elevated.
- A revised plan has been submitted which includes a soakaway area to store the surface water run-off for a 1:30 year storm.
- There is a hydrological connection to the designated site although a very low risk of flooding and with a comprehensive management plan a Stage 2 can be ruled out.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

The planning authority responded to state they had no further comments and should the appeal be successful a financial contribution should be included.

6.4. Observations

None submitted.

7.0 Assessment

The grounds of appeal have submitted additional information in the form of a revised surface water drainage plan. Having regard to this additional information and the information on file I consider the main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- New Entrance and Pedestrian Access
- Other
- Appropriate Assessment.

7.1. Principle of Development

- 7.1.1. The site is an infill/backland site, located on the edge of a small rural town, Ballyboughal in Fingal. The site is located within the defined settlement of the Ballyboughal and is accessed from an existing entrance which provides access to separate dwelling and other buildings to the rear, west of the site.
- 7.1.2. The second reason for refusal relates to the principle of the development on this site. Having regard to the lack of connectivity to the village and the backland nature of the site, the planning authority considered the proposal would be undesirable and not in keeping with the prevailing character of the village. The planning authority

considered the proposal would be contrary to Objective PM18 and DMS32 and the Ballyboghil Village Development Framework Plan and Design Guidance 2012.

- 7.1.3. The report of the area planner notes that the Ballyboughal LAP has expired. It is also noted that the site is not accessible to the public, due to the presence of a locked gate along the access road, is outside the village core and the proposal is considered premature and piecemeal. The applicant's response to this refusal reasons refers to the national and local guidance on development in rural villages and does not consider the proposal represents any conflict to those policies and objectives.
- 7.1.4. Ballyboughal Village is located to the north of Swords, within a rural area which is under pressure from one off rural dwelling. The area in the immediate vicinity of the site is characterised by one off dwellings within large plots and there are stables to the rear, west, which appear to be currently unused. The entrance into the site from the R108, the subject site, the adjoining access road, and the site to the rear are within the ownership of the applicant.
- 7.1.5. The Fingal County Development Plan 2017-2023 was the development plan in place at the time of the planning authority decision which has been superseded by the Fingal County Development Plan 2023-2029. Ballyboughal is identified in the current development plan as a Core Town/ Village in Fingal. Policy Objective SPQHO56 of the development plan supports the compact growth of rural towns/ village such as Ballyboughal including infill, brownfield development where they can enhance the existing village character and create or strengthen a sense of identity.
- 7.1.6. The site is a used site located between an existing dwelling and unused stables on the boundary of the village. Although there are currently large, detached dwellings directly to the north of the site, I note other greenfield sites closer to the village centre. Having regard to these characteristics I consider a large dwelling is in keeping with the existing pattern of development in the vicinity. Having regard to the design and layout there would be no negative impact on the surrounding area. The inclusion of a further detached dwellings, in my opinion, would not detract from the surrounding area or conflict with any policies for development within the Ballyboughal village. The Board will note the previous masterplan for the village has

expired and Policy CSP7 of the current development plan proposes to implement a new masterplan for those defined areas (Ballyboghil MP 3.B).

7.1.7. I note the report of the area planner refers to the location of the gate which restricts access into the site. Objective DMSO30 of the development plan restricts the use of gated communities. From site inspection it appeared the gate was used as a security measure for both the subject site and lands to the rear, both within the control of the applicant. This aside, as the applicant has control over all the lands, I consider it reasonable that a condition on any grant of permission requires the removal of the gate and relocation to a position which does not restrict access into any residential development.

7.1.8. Therefore, having regard to the location of the site within a rural village, the policies, and objectives of the Fingal County Development Plan, in particular Policy Objective SPQHO56 which direct development into rural villages, and the characteristics of the surrounding area, I do not consider the proposal would represent an undesirable development at this location. It is my opinion that the proposal can be defined as an underutilised site, and I do not consider the proposal should be refused for reasons relating to the principle of development.

7.2. New Entrance and Pedestrian Access

7.2.1. Access into the site is via a current entrance off the R108 and a private internal access road. This entrance currently provides access to a private residential dwelling at the front of the site, adjoining the R108 and stables to the rear of the site, which appear to be vacant at present. The entrance and access road are significant in scale relative to the current use, and bollards have been placed at the entrance from the R108 to prevent any parking on the site.

7.2.2. The second reason for refusal refers to the inadequate sightlines onto the R108, the intensification of the site and the contravention of objective DMS126 of the Fingal Development Plan. It is argued by the planning authority that the site, although located within a 50km/hr zone should comply with the sightline standards relating to an access onto a 70km/hr road, due to the nature of the R108 and the location of the site on the edge of the village.

- 7.2.3. Permission has recently been granted for an upgrade of the junction (Reg Ref F22A/0239). The Transport Section acknowledge this grant of permission although consider it was only to upgrade a substandard entrance and was not linked to any use on the site.
- 7.2.4. The grounds of appeal include a sightline assessment and a point cloud survey (3D modelling survey illustrating constraints and solutions for the access). It is stated that the ESB pole to the south of the site, within the sightlines, will be relocated as per the grant of permission F22A/0239.
- 7.2.5. The grounds of appeal also refer to table 4.2 of the Design manual for Urban Streets and Roads (DMURS) as the relevant standards for Forward Visibility and Stopping Sight Distances (SSDs). The standards for those entrance within 50km/hr are 45m in each direction. The appellant refers to the Transport Section report on the previous grant of permission which confirms these standards. The applicant also contends they can achieve a 70m visibly spay in both directions. This aside, I note the site layout submitted with the applicant and the supporting illustrations with the grounds of appeal (Drwg No A.03.01.4) indicate that, subject to compliance with permission Reg Ref F22A/0239, the required sightlines necessary to comply with DMURS can be achieved. I have had regard to the standards in Table 4.2 of DMURS and the information submitted, and I am satisfied that proposal can meet the required sightlines.
- 7.2.6. The absence of any pedestrian/cycle connectivity into the village core is also raised in the PA reason for refusal. The grounds of appeal consider that having regard to the location from the village core and the scale of the proposal it is not reasonable to provide a pedestrian/cycle link into the village core. It is argued that the applicant would contribute towards the delivery of any public infrastructure. Upon site inspection it was noted that the existing footpath was located over 500m from the subject site on the opposite side of the road. There are no policy or objectives requiring the delivery of a footpath up to the site. It is my opinion that the requirement for the applicant to provide a footpath for one dwelling is excessive and I do not consider the proposal would have a significant negative impact on the movement of traffic or pedestrians along the R108.

- 7.2.7. In terms of intensification of access, I note the proposal for one dwelling will generate c. 2 cars on the site. As the site is within a village setting at a location where the entrance will be upgraded, I do not consider the generation of a further two cars would cause significant intensification of the current site and/or entrance.
- 7.2.8. Having regard to the permitted upgrade of the entrance under Reg Ref F22A/0239, the nature and scale of the proposed development and the location within a village, I consider the design of the entrance complies with the required standards.

7.3. **Flooding**

- 7.3.1. The third reason for refusal relates to the inadequacy of the Flood Risk Assessment (FRA) to address the impact on an existing stream to the south of the site and the potential impact on any Natura 2000 site (due to potential hydrological links).
- 7.3.2. The Water Services Report requested additional information to include a revision of the flood risk assessment, taking cognisance of the flood risk associated with the existing stream.
- 7.3.3. The grounds of appeal were accompanied by an updated FRA. It is stated that the site is not located within a flood zone and there are no recorded events of flooding on the site or in the vicinity. The Stage 1 FRA assessment concludes no impact from the proposal on the adjoining Barnastown Stream. Drwg No A.03.01.4 which accompanied the grounds of appeal illustrates the location for a proposed soakaway with overflow to the proposed swale and filter drain along the south of the site. There will be no surface water flow from the site and the wastewater will connect into the public system.
- 7.3.4. I consider the site can be reasonably serviced to treat the surface water within the site. I note the site is separated from the stream by the existing internal access road and no evidence has been submitted to indicate that there has been any flooding at this location. Therefore, I consider the information submitted within the grounds of appeal sufficient to address any concerns in relation to flood risk in the vicinity of the site. I have addressed the impact on any European sites below in Section 7.5.

7.4. Other

- 7.4.1. The report of the Parks and Landscaping Section had no objection to the proposal subject to conditions. In the event of any grant of permission, this section recommends several changes to the proposal including a reduction in the height of the western boundary, use of native species in the landscaping plan and a financial contribution in lieu of any public open space.
- 7.4.2. I note the site is surrounded by substantial block boundary walls not appropriate for a residential use. No alterations to the boundaries are proposed, aside from the entrance into the site. I consider a reduction in the height of that boundary wall along the front (south) of the site would ensure the residential amenity of the future occupants is retained. The Parks Department refer to a western boundary wall although also note the boundary onto the access road, which the Board will note is the southern boundary.
- 7.4.3. In relation to the special contribution, I note Objective CIO49 of the development plan requires an equivalent financial contribution in lieu of open space provision where it is not viable to provide public open space. I consider a standard Section 48 Development Contribution Scheme is sufficient to address these requirements.
- 7.4.4. Having regard to my recommendation to grant permission, I consider it reasonable to include conditions referred to in the Parks Report.

7.5. Appropriate Assessment

- 7.5.1. The third reason for refusal relates to the potential impact on flooding. Reference is made to the stream along the south of the site and the hydrological connection to a European Site. The closest European Site is located c. 5.2km to the east of the site (Rogerstown Estuary SPA/SAC) and is separated from the site by the M1. The stream that runs along the south of the site (Belinstown) flows east¹ into the Daws River and eventually into the Rogerstown Estuary.
- 7.5.2. As stated above all, I consider the surface water can be treated within the site and the Stage 1 FRA concludes no flood risk from the site. The subject site is separated

¹ <https://gis.epa.ie/EPAMaps/>

from the stream along the south and having regard to the servicing of the site there will be no impact on the stream.

- 7.5.3. Having regard to the location, scale, and nature of the proposed development it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend a GRANT of permission for the reasons and considerations and subject to the conditions listed below.

9.0 Reasons and Considerations

Having regard to:

- a) The location of the site within Ballyboughal Village and those speed restrictions along the R108 at 50 km/hr,
- b) The policies and objectives of the Fingal County Development Plan 2023-2029 in relation to rural villages and the land use zoning as RV, Rural Village,
- c) The nature, location and extent of the proposed development and the established character and pattern of development in the vicinity of the site,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the provisions of the Fingal County Development Plan and with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning
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	<p>authority and amended by those drawings submitted to An Bord Pleanála on the 24th of October 2022, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to for determination.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> a) The gates along the access road shall be moved to a location which does not prevent access into the subject site. b) The southern boundary wall, adjoining the access road, shall be amended so as to not exceed 1.4m. <p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the Interest of residential amenity.</p>
3.	<p>The proposed development shall comply with the terms and conditions of Planning Reference F22A/0239, save where amended by the terms and conditions herein.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
4.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species].</p>

	<p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
5.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, construction traffic management and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The applicant or developer shall enter into water wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
9.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</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.

Karen Hamilton
Senior Planning Inspector

06th of June 2023