



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315086-22

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<b>Development</b>	Construction of an agricultural dry-store building with ancillary works.
<b>Location</b>	Rathmichael Lane, Rathmichael, Shankill, Co. Dublin.
<b>Planning Authority</b>	Dún-Laoghaire Rathdown Co. Council
<b>Planning Authority Reg. Ref.</b>	D22A/0637
<b>Applicant(s)</b>	Conor Morgan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Conor Morgan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> July 2023.
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 741sq.m, is located at the head of Rathmichael Lane – within rural Rathmichael, Co. Dublin. The site is accessed by an unsurfaced laneway with grass growing along its middle. There is no public lighting on the laneway and there are no public footpaths. It is not possible to pass two cars on this laneway – except at gateways. The lane serves as access to one house, a covered reservoir, an old cemetery and agricultural land.
- 1.2. The site itself occupies the corner of a larger grassed field. It slopes gently downhill from west to east – on or around the 85m contour. It is largely covered with hard-core. Within the site, there is a caravan, timber shed and tarpaulin-covered temporary structure. There is a variety of timber, concrete waste, plastic barrels and other equipment stored about the site. The boundary with the laneway is an unplastered and uncapped concrete block wall (2.0-2.5m high) – within which is set a 2.2m high sliding, timber gate; which provides access to the site. Some Leyland cypress trees have been planted between this wall and the edge of the laneway carriageway. To the west of the site is a gated entrance to a reservoir – the boundary with which is an hedgerow. The northern boundary of the site is formed by a poor-quality hedgerow. The eastern boundary of the site is an ivy-clad old granite wall – up to 3.0m in height.

## 2.0 Proposed Development

- 2.1. Permission sought on 29<sup>th</sup> August 2022, for development comprising the construction of an agricultural dry-store building of 70sq.m, associated soakway area.
- 2.2. The application is stated to be accompanied by a letter of consent from the landowner (Margaret McNulty of 13 Stonebridge Close, Shankill, Co. Dublin), to the making of the planning application – dated 21<sup>st</sup> January 2021. [I note that there was no copy of his letter on the original file. On 6<sup>th</sup> December 2022, the Board wrote to DL-RCC, requesting a copy of this letter. This was received by the Board on 15<sup>th</sup> December 2022].

## 3.0 Planning Authority Decision

### 3.1. Decision

By Order dated 20<sup>th</sup> October 2022, DL-RCC issued a Notification of decision to refuse permission for one reason.

“Having regard to the overall height of the proposed development, the elevated nature of the subject site relative to the surrounding area and the transitional zonal area of the site, the proposed development would be visually prominent and obstructive at this location and would visually detract from the unique character of the surrounding high amenity landscape. In this respect the proposed development would contravene Policy Objective GIB4 High Amenity Zones and Section 13.1.2 ‘Transitional Zonal Areas’ of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, would seriously detract from the visual amenity of the area, and would set an undesirable precedent for the area, and would, therefore, be contrary to the proper planning and sustainable development of the area”.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

Report, dated 20<sup>th</sup> October 2022, indicated a concern in relation to the height of the building and its potential impact on high-amenity zoned lands immediately to the south; where the appeal site was considered to be a transitional zonal area. The abrupt change in scale was considered to have a negative visual impact on the lands zoned ‘G’. Reference is made of Policy GIB4 which seeks to conserve and enhance existing ‘High Amenity Zones and seeks to manage these and other areas so as to absorb further recreational uses and activity, without damaging their unique character. The principle of development for bloodstock uses at this site is considered acceptable. The report notes some discrepancies in drawings in relation to height and floor area of the structure. Concern was also expressed in relation to the date of the letter of consent from the landowner.

#### 3.2.2. Other Technical Reports

*Transportation Planning Section*

Report, dated 11<sup>th</sup> October 2022, indicated no objection, subject to compliance with conditions.

#### **4.0 Planning History**

None referenced in the Planner's Report.

#### **5.0 Policy Context**

##### **5.1. Development Plan**

The relevant document is the Dún Laoghaire-Rathdown County Development Plan 2022-2028.

- The site is zoned 'A1' – To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans. Agricultural buildings are 'Open for Consideration' within this zoning.
- The site is within the Rathmichael Local Area Plan boundary. Table 2.16 of the Development Plan comprises the Local Area Plan-Making Programme. It indicates that a new plan is to be prepared for Rathmichael.
- Adjacent lands to the south are zoned 'G' – To protect and improve high amenity areas. Agricultural buildings are also 'Open for Consideration' within this zoning.
- There is a symbol on the zoning map, 'To Protect and Preserve Trees and Woodlands' relating to this land.
- As per Map 10 of the Plan, there is a public right-of-way to the east of the site along Rathmichael Lane.
- There is a Six-Year Road Objectives/Traffic Management/Active Travel Upgrades for Rathmichael Road (from which Rathmichael Lane takes access).

## 5.2. Natural Heritage Designations

The site is not located within or adjacent to any Natura 2000 sites. There are no watercourses either within or adjoining the site which could link this site with a waterbody-defined Special Area of Conservation or Special Protection Area. There are no proposals for foul effluent treatment. Surface water will be discharged to a soakway on the site. The closest European Sites are-

- Ballyman Glen SAC (Site Code 000713) – located some 3.3km to the south.
- Rockabill to Dalkey Island SAC (Site Code 003000) – located some 4.0km to the northeast.
- Knocksink Wood SAC (Site Code 000725) – located some 4.4km to the southwest.

DL-RCC concluded that the proposed development would not significantly impact on a Natura 2000 site. The proposed development is located within an agricultural area, on zoned lands that are not serviced with sewers. It is reasonable to conclude, on the basis of the information on the 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 any Natura 2000 sites. A Stage 2 Appropriate Assessment is, therefore, not required.

## 5.3. EIA Screening

DL-RCC concluded that there would be no real likelihood of the proposed development having a significant effect on the environment. Having regard to the nature of the proposed development, comprising the construction of an agricultural shed in a rural area, which is not served by sewers, 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 on preliminary examination; and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appeal from Eugene M. Doyle & Associates, agent on behalf of the applicant, Conor Morgan, received by the Board on 14<sup>th</sup> November 2022, can be summarised in bullet-point format as follows-

- The height of the building is 9.85m. The internal footprint of the building is 70sq.m, whilst the external footprint is 84sq.m.
- The letter of consent is dated 2021. This was obtained to accompany the pre-planning consultations. The planning authority could have sought additional information in relation to this issue.
- Existing trees and hedgerows on the site will be retained.
- Agricultural buildings are 'Open for consideration' within this zoning.
- The building may, in fact, be exempted from the requirement for planning permission; and the agent for the applicant believes this to be the case.
- There will be no significant impacts on Natura sites.
- There will be no significant impact on the environment.
- There are a number of similar-sized agricultural sheds in this area – measurements, locations and colour photographs attached.
- Two colour photographs of the wider area are included to indicate that the barn will not be visible in the wider landscape.

6.1.2. The appeal is accompanied by a letter from the applicant, 13 Stonebridge Close, Shankill, Co. Dublin, which can be summarised as follows-

- The subject site is not elevated, relative to its surroundings. The finished floor level of the barn is at 83m OD. There is a tree-line behind the barn, separating it from the high amenity lands to the south.
- The adjoining field is zoned for residential use – and will ultimately have three-storey houses on it.

- The site is not a transitional zone. It is separated from high-amenity lands by the Council's own covered reservoir.
- Hedgerows and trees in the area will help to screen the barn. New tree-planting to the east, north and west would further screen the barn. The shape and size of the structure would blend in with the surrounding countryside. The barn is vernacular in design.
- The granting of permission would not set an undesirable precedent for this area.
- Reference to a Local Area Plan goes back as far as 2004. An LAP might not be produced until 2027 – the intervening time being used to hobble development in the area. In the meantime, the agricultural activity of the area must be allowed to continue.

## 6.2. Planning Authority Response

The response of DL-RCC, received by the Board on 29<sup>th</sup> November 2022, indicated that there was no further comment to make.

## 6.3. Observations

None received.

## 7.0 Assessment

### 7.1. Development Plan Considerations

- 7.1.1. The site is zoned for residential use. Agricultural sheds are 'Open for consideration' within this zoning. There is no indication on the file as to where the land this shed will serve is located. The site is separated from the field to the north and west. The metal frame of a ruined agricultural shed is located to the north, in the corner of the same field – indicated in photographs submitted by the applicant as 'Sean O'Shay's Barn'). The proposed shed is particularly high – at 9.8m. There is no indication given of why the shed needs to be so tall. Drawings submitted do not indicate any loft area within the structure.

- 7.1.2. The appeal documentation refers to the zoning of the site since 2004, during which time a Local Area Plan was to be produced. The appellant mentions that such an LAP will not be produced until 2027, and that this has hobbled development in this area – particularly for farming purposes. The ‘A1’ zoning particularly refers to providing for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local areas plans. There is no LAP in place for Rathmichael. The LAP boundary is a wide one – and the appellant refers to 2,300 housing units. The planning authority did not refuse planning permission on grounds of prematurity, pending the adoption of an LAP for Rathmichael. Notwithstanding this, I would consider that the proposed development is premature, pending the adoption of such an LAP. The zoning of the Plan particularly provides for such, in the interest of the orderly development of the area – particularly where expensive infrastructure will have to be provided. Permission should be refused, as the development contravenes the zoning provisions of the Plan.
- 7.1.3. The Plan indicates a symbol on the zoning maps ‘To protect and Preserve Trees and Woodlands’. There are no trees and woodlands on this site. There are some mature trees within a hedgerow on the southern boundary – but apart from these, the hedgerow boundary to the west is of poor-quality. The proposed development will not have any impact on the hedgerow boundary to the south.
- 7.1.4. The Plan indicates a walking route along Rathmichael Lane. The proposed development will not have any impact on this walking route.
- 7.1.5. The reason for refusal refers to the height of the structure and its impact on the ‘G’ zoned lands to the south – ‘To protect and improve high amenity areas’. Having regard to the presence of a mature hedgerow on the southern boundary and an Uisce Éireann covered reservoir immediately to the south (within the ‘G’ zoned lands), I would not consider that the development would have a detrimental visual impact on the high amenity lands.

## 7.2. Traffic

- 7.2.1. Rathmichael Lane is a short cul de sac for vehicular traffic. The laneway serves one house, an old cemetery, the reservoir and agricultural land. It is unsurfaced and has not public footpaths or public lighting. Passing places for vehicles are limited along



its length. I note that the Transportation Planning Section of DL-RCC had no objection. Additional turning movements into and out of this laneway will have implications for traffic on Rathmichael Road. The additional traffic generated by a development of this nature would result in traffic hazard and obstruction of road users – particularly at the junction within Rathmichael Road, and permission should be refused for this reason.

- 7.2.2. Sight distance is limited in either direction at the gateway. The entrance is not recessed. Sight distance will disimprove as the Leyland cypress trees planted against the boundary wall mature. However, having regard to the unsurfaced nature of the laneway and the low speeds at which traffic on the laneway would be travelling, the limited sight-distance is not likely to result in traffic hazard. It does, however, point up the premature nature of the development – pending determination of a road network for the LAP.

### 7.3. **Drainage**

- 7.3.1. The site layout plan submitted with the application indicates a 28.15sq.m soakway to be provided within the site. No details of the soakway have been provided. This matter could be conditioned as part of a grant of permission. There is no indication given of any proposal for toilet facilities on the site or for manure storage.

### 7.4. **Other Issues**

#### 7.4.1. Exempted Development

The appeal has argued that the proposed shed may in fact be exempted development. The matter for consideration before the Board, is an appeal and not a reference case.

#### 7.4.2. Visual Amenity

The reason for refusal refers to the visual impact of the development within a transitional zonal area – i.e. immediately adjacent to lands zone for high amenity. I have elsewhere commented on the height of the structure being unnecessarily tall. Notwithstanding these comments, I would consider that, having regard to the backdrop of hedgerow trees immediately to the south, the proposed development

would not be unduly obtrusive in the landscape. The applicant has indicated that there is no intention to remove the hedgerow to the south. It would be possible to attach a condition to any grant of permission, requiring that the hedgerow to the south be retained. It is not clear if the hedgerow is entirely, partly or not at all in the control of the applicant. The applicant has further pointed out that the lands are zoned for residential development, and may ultimately see three-storey residential buildings located on lands immediately adjoining. This would be a matter for the LAP, and any uses which might be proposed for the immediately-surrounding lands.

## 8.0 Recommendation

I recommend that permission be refused for the Reasons set out below.

## 9.0 Reasons

1. The proposed development would materially contravene the 'A1' Development Plan zoning objective for this site – which seeks to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans. The appeal site lies within the Rathmichael Local Area Plan (LAP) boundary – for which lands, Table 2.16 of the Plan indicates that a new LAP is to be prepared. The proposed development would pre-empt any proposals which the planning authority might wish to implement, in relation to the nature and type of development/use on this site and/or the provision of sustainable neighbourhood infrastructure.
2. The proposed development would set an undesirable precedent for other similar types of development in the area – pending the adoption of the Rathmichael LAP.
3. The proposed development would result in obstruction of road users, arising from the narrowness of Rathmichael Lane, and the limited passing places on this road.

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.

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**Michael Dillon,  
Planning Inspectorate.**

**18<sup>th</sup> August 2022.**