



An
Bord
Pleanála

Inspector's Report

ABP 319220-24

Development	1.5 storey house with waste-water treatment system and replacement waste-water treatment system for an existing dwelling
Location	Oberstown, Lusk, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0753
Applicant(s)	Emma McGlynn
Type of Application	Permission
Planning Authority Decision	To refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Emma McGlynn
Observer(s)	None
Date of Site Inspection	15 th . May 2024
Inspector	Brendan McGrath

1.0 Site Location and Description

- 1.1. The site is an existing residential plot in a row of five dwellings on a rural road in an open, arable farming landscape (within the 'high-lying agricultural' landscape character area defined in the development plan). The site is near to a loose group of farm buildings which are clustered around a crossroads. The 0.4 ha. site, which includes an existing bungalow and detached garage slopes to a small stream (Ballough), which forms the southern boundary of the site.

2.0 Proposed Development

- 2.1. The proposal is a 1½ storey dwelling, with a barn-like design, to the rear of an existing bungalow. The proposal includes demolition of an existing garage building to create a vehicular access to the rear and building two on-site waste water treatment plants, one for the new dwelling and a replacement system for the existing bungalow. The proposal involves maintaining a 15m wide development-free strip beside the Ballough Stream. The new house would share the driveway of the existing bungalow. The applicant is the daughter of the landowner who lives in the bungalow.

3.0 Planning Authority Decision

3.1. Decision

Refusal for the following, multi-faceted reason:-

- Material contravention of the RU rural zoning objective in Fingal Development Plan 2023-2029, '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',
- Non-compliance with policy objectives SPQHO55 and SPQHO84 of the Fingal Development Plan 2023-2029 , and
- Creation of an undesirable development precedent.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning report is the basis for the planning authority decision. The report acknowledges changes in the design which take account of previous refusal but the planner is concerned about back-land and suburban character of the proposed development and points out that a cited precedent, a grant of permission, reg ref F22A/0653, relates to a site in a different zoning RC- rural cluster. The planner notes the submission of an Appropriate Assessment Screening Report with the application which concludes that the proposal does not pose any threat to Natura 2000 sites in the locality. However, it also notes that the proposal is not able to meet the requirement of a minimum 48m buffer from the Ballough Stream which is a minimum development plan standard for sites outside of designated settlement boundaries (Objectives IUO26 and DMSO210 of the Plan)

3.2.3. Other Technical Reports

Parks and Green Infrastructure

No objection

Transportation

No objection

Water and drainage

No objection

3.3. Prescribed Bodies

Uisce Éireann

No objection

3.4. Third Party Observations

No third party observation

4.0 Planning History

F22A/0041 (ABP 313383-22) Permission refused and refused on appeal for bungalow and waste-water treatment system

ABP refused permission for the following reasons:-

- Development would fundamentally alter the character of a rural area under housing pressure,
- Set an undesirable precedent, and be
- Contrary to rural zoning objective and policies (SPQHO55 and SPQHO84) of the Fingal Development Plan 2023 -2029

F21A/0350 Permission refused for bungalow and waste-water treatment system

5.0 Policy Context

5.1. National Policy

Rural Fingal is an area under 'Strong Urban Influence' as defined by the Sustainable Rural Housing Guidelines (DEHLG, 2005) and within which development management is required to restrict urban generated housing in the open countryside. This focus is reflected in the relevant objectives of the National Planning Framework and the Regional Spatial and Economic Strategy (NPO 19 and RPO 4.80 respectively).

5.2. Development Plan

The Fingal Development Plan 2023-2029 contains the following relevant planning objective and planning policies:-

- The site is zoned RU with the 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
- Policy SPQHP46-Rural Settlement Strategy. Respond to the rural-generated housing need by means of a rural settlement strategy which will direct the demand, where possible, to rural villages, rural clusters and permit housing development within the countryside only for those people who have genuine rural generated housing need in accordance with the Council's Rural Housing Policy and where sustainable drainage solutions are feasible

- Rural-generated housing needs (Section 3.5.15.3) includes ‘persons who have close family ties to Fingal rural community as defined in Table 3.5 (of the Development Plan)
- Maintenance of a 48m wide development-free riparian strip beside water courses in rural areas

5.3. Natural Heritage Designations

- 5.3.1. None relevant but proposal is within a 48m wide riparian buffer strip (Objectives IUO26 and DMSO210 of the Plan)

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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 local authority has repeated the reason for refusal by An Bord Pleanála of the last application (F22A/0041 ABP 313383-22) without taking into account the changes in the current proposal.
- There is adequate space for a back-land development in accordance with site development standards.
- There are no objections from other departments, statutory bodies or third parties.
- There is no development pressure in the area.
- A barn-like dwelling proposed is in keeping with agricultural character of nearby farm buildings
- Proposal would be hardly visible from public road, therefore cannot affect local landscape character

- Proposal site is part of a rural cluster even if it is not zoned as such and therefore the cited precedent (reg. ref. 22A/0653) is relevant
- Cites another relevant precedent on RU Zoned lands (reg. ref. F13A/0125)

6.2. **Planning Authority Response**

The local authority has reiterated its opinion that the proposal would materially contravene the RU zoning objective and be contrary to policies SPQHHP55 and SPQHO84 of the Fingal Development Plan 2023-2029 but requests application of a financial contribution condition should the Board be minded to grant permission.

6.3. **Observations**

There are no observations

7.0 **Assessment**

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and in the planning authority's reason for refusal. Policy on riparian buffer zones is also an issue, raised in the planner's report, but not cited as a reason for refusal. Appropriate Assessment also needs to be considered. The main issues, therefore, are as follows:-

- Zoning,
- Rural Settlement Strategy,
- Policy on riparian buffer strips,
- Precedent, and
- Appropriate Assessment

Zoning

There has been no material change in the zoning objective for the locality since the previous refusal of permission on appeal.

Rural Settlement Strategy

There has been no material change in national and local rural settlement strategies since the previous refusal of permission on appeal. It has previously been concluded that the applicant qualifies for special consideration under the Rural Settlement Strategy of the Fingal Development Plan on the basis of *close family ties to the rural area* of Oberstown (Objective SPQHO81 and Table 3.5 of the Plan)

Development-free riparian strip (Objectives IUO26 and DMSO210 of the Plan)

The proposed house and the two wastewater treatment plants are less than 48m from the Ballough Stream on the northern site boundary and therefore not in accordance with Objectives IUO26 DMSO210 of the Plan, which require a 48m-wide riparian buffer on each bank of a water course outside of a settlement.

Precedent

I consider that setting an undesirable precedent remains a relevant consideration. The vaulted building design proposed emulates agricultural buildings nearby and, in views from the road the proposal is now hidden behind an existing bungalow, which reduces the visual impact. Nevertheless, the proposal site is physically separate from the group of farm buildings and I would still regard the proposal as an anachronistic feature in its setting, both by reason of design and its 'backland' siting. I would regard the proposal as an unwelcome addition to an open farming landscape which is under urban development pressure and consider that the previous reason for refusal of permission still substantially applies. I was unable to locate the file cited for precedent, F13A/0125, but, given the file number, the decision was probably made several years ago, and would not be a strong precedent.

Appropriate Assessment

A Screening Report for Appropriate Assessment was submitted with the last planning application on the site (F22A/0041, ABO-31183-22) which concluded that there was no risk of habitat loss, fragmentation or any other direct impact on any European site. Having regard to the nature and scale of the proposal and distance to the nearest European Site, no Appropriate Assessment issues arise and it is not considered that the proposed development would 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 that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

The proposed development for a rural house in an area experiencing a significant amount of rural housing pressure would alter the rural character of the area to a more low density suburban appearance at odds with the 'RU' Rural Zoning and related Objective and Vision, which seek to protect the rural landscape character, to protect the value of the rural area, and to promote the integrity of the landscape.

The proposed development and precedent it would set for similar type development would contribute to the suburbanisation of the rural area, and would result in injury to the rural landscape character of the area. The proposed development would therefore be contrary to the provisions of the Fingal Development Plan 2023-2029, namely Policy SPQHP55 and Objective SPQO84. The proposal would also contravene objectives Objectives IUO26 and DMSO21O to safeguard a riparian buffer. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

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.

Brendan McGrath
Planning Inspector

5th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319220-24		
Proposed Development Summary	House		
Development Address	Oberstown, Lusk, Co. Dublin		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	<input checked="" type="checkbox"/>
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	<input checked="" type="checkbox"/>		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** _____