



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320267-24

<b>Development</b>	Construction of a dwelling with effluent treatment system and all associated site works.
<b>Location</b>	Newtown, Garristown, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F24A/0413E
<b>Applicant(s)</b>	Daragh Shanahan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Daragh Shanahan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17th September 2024
<b>Inspector</b>	Aoife McCarthy



## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.266 ha and is located in Newtown, Garristown, Co. Dublin. The site is greenfield and forms part of a wider landbank (c.41.18 ha), located to the north and south of the L110, all in agricultural use.
- 1.2. The site is bound by the L110, (a cul-de-sac) to the north; by agricultural sheds to the east; by lands in agricultural use to the south; by the grounds of a single storey dwelling and mobile home to the west. The wider landbank includes an additional dwelling to the east of the subject site and south of the L110.
- 1.3. The site is rural in character, and with a limited slope, from north-east to south-west. The site is located c.2km from Garristown village.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of a 4 bed bungalow dwelling (c.181.5 sqm Gross Floor Area (GFA)), the installation of an effluent treatment system and percolation area; a new vehicular access from a local road, the L110, and all ancillary works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority refused planning permission for 1 no. reason on the 1<sup>st</sup> July 2024, summarised as follows:-
  - The site is located within the 'HA - High Amenity' zoning objective under the Fingal Development Plan, 2023 - 2029. Residential development is only permitted on suitable sites where the applicant has established a genuine need to live in the rural area (Chapter 3 refers).
  - The site is located in a 'Rural Area under Strong Urban Influence' under the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005); and it is national policy as set out in National Policy Objective (NPO) 19 of the National Planning Framework (NPF) to facilitate the provision of

single housing in the countryside, based on a core consideration of demonstrable economic or social need to live in such rural areas under urban influence.

- The Planning Authority consider that the First Party has not satisfactorily demonstrated their eligibility to be considered for a dwelling in the rural area and that his housing need cannot be satisfied by the second residential property located on the family farm / landholding.
- The applicant has not satisfactorily overcome the previous reason for refusal (P.A. Reg. Ref. F22A/0470 refers). In this context, the planning authority considers that the proposed development would materially contravene the rural settlement strategy of the Development Plan; would be contrary to the Ministerial Guidelines and the overarching national policy in the NPF.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Report**

- The planning report is the basis of the planning authority decision.
- The report refers to NPO 19 of the National Planning Framework (NPF) which sets out the necessity to demonstrate an economic or social requirement for housing need in areas under urban influence.
- In this context, rural lands in Fingal are considered to constitute lands under urban influence, as referenced in the Sustainable Rural Housing Guidelines for Planning Authorities (2005).
- The Report notes that the site is subject to High Amenity (HA) zoning objective, under which residential use is a permissible use.
- In this context, whilst the applicant is considered to comply with the Rural Settlement Strategy of the Development Plan; the Planning Authority is not satisfied that the Applicant's housing need cannot be met within the existing secondary dwelling within the family farm/landholding.
- The report refers to the decision of the Planning Authority on the 9<sup>th</sup> May 2023 to refuse permission to the Applicant for a single storey dwelling with an

effluent treatment system on lands within the wider landholding (P.A. Reg. Ref. F22A/0470 refers).

- The site is located within the Garristown Highly Sensitive Landscape Character Area.

### 3.2.2. Other Technical Reports

**Environment Section:** No objection.

**Parks and Green Infrastructure:** No objection subject to standard conditions.

**Water Services:** No objection subject to standard conditions.

**Transportation Planning:** No objection, subject to submission of revised vehicular access, located either adjacent to the existing entrance to the cottage to the west or as a shared vehicular access to both properties.

### 3.3. Prescribed Bodies

**Uisce Éireann:** No objection subject to standard conditions.

### 3.4. Third Party Observations

None received.

## 4.0 Planning History

### 4.1. Subject Site

There is no relevant planning precedent on the subject site.

### 4.2. Adjoining Site

**P.A. Ref.: F22A/0470:** The Planning Authority refused permission to the applicant on the 9<sup>th</sup> May 2023 for development consisting of a single storey dwelling house with an effluent treatment system and percolation area. The development includes a shared vehicular access with the adjoining property to the immediate east. This property is noted as in the ownership of the applicant and used as a residence by the applicant's uncle.

This application relates to lands to the immediate west of the subject site and referenced in the reason of refusal of the subject application.

The Planning Authority refused permission for two (2 no.) reasons, summarised as follows:

**1:** The site is subject to a 'HA - High Amenity' zoning objective under the Fingal Development Plan, 2023 - 2029. Residential development is only permitted on suitable sites where the applicant has established a genuine need to live in the rural area, subject to specific criteria set out in Chapter 3 of the Development Plan.

The site is located in a 'Rural Area under Strong Urban Influence' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' (DoEHLG, 2005) and it is national policy in such areas under urban influence, as set out NPO 19 of the NPF, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in such rural areas under urban influence.

The Applicant has not satisfactorily demonstrated their eligibility to be considered for a dwelling in the rural area of Fingal and that his housing need cannot be satisfied by the second residential property located on the family farm / landholding.

The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2023 - 2029, would be contrary to the Ministerial Guidelines and to the over-arching national policy in the National Planning Framework.

**2:** The Applicant has not submitted sufficient information to enable a full assessment of the visual impact of the proposed development and therefore would be contrary to Objective GINHO56 – Visual Impact Assessments of the Development Plan.

The Planner's Report notes that there was insufficient time for the Planning Authority to request Clarification of Further Information, with respect to both matters as referenced above.

## **5.0 Policy and Context**

### **5.1. Project Ireland 2040 National Planning Framework (NPF), 2018**

- 5.1.1. **National Policy Objective 15:** Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- 5.1.2. **National Objective 19:** 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.
  - In **rural areas elsewhere**, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## 5.2. **Sustainable Rural Housing Guidelines for Planning Authorities, 2005**

- 5.2.1. These Guidelines set out how the Government's policies on rural house are to be implemented by planning authorities, in making development plans and in the operation of development management to ensure a vibrant future for all areas.
- 5.2.2. The Guidelines refer to persons considered as constituting those with rural generated housing needs being persons who are an intrinsic part of the rural community or working full-time or part-time in rural areas. The Guidelines refer to persons who are an intrinsic part of the community as having 'spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes'.

5.2.3. The proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the Guidelines.

5.2.4. Circular Letter PL 2/2017 issued on 31<sup>st</sup> May 2017, refers to an infringement notice against Ireland in 2007, in relation to housing needs criteria contained in the 2005 Guidelines. This notice was subsequently deferred pending the outcome of an infringement case taken against Belgium, on which the European Court of Justice (ECJ) delivered its Judgement in 2013. Updated and revised Guidelines are proposed by the Department of Housing, Local Government and Heritage. However, there is no date at present for when these will be published.

5.2.5. Section 4.8 states the following:

In assessing the design aspects of specific rural housing proposals, planning authorities should make well balanced and informed judgements on the merits of each proposal, taking on board the degree to which a site is sensitive in visual and other terms, the character of surrounding development and the wider area and the need to encourage innovation in design and construction techniques, while avoiding an overly prescriptive approach, such as an outright ban on particular materials e.g. brick, across all proposals in a given area in relation to the designs and finishes chosen.

5.3. **Eastern and Midland Regional Spatial & Economic Strategy (RSES), 2019-2031**

**Regional Policy Objective (RPO) 4.79:** Local authorities shall identify and provide policies that recognise the contribution that small towns, villages and rural areas contribute to social and economic wellbeing. As part of this policy provision that seeks to support and protect existing rural economies such as valuable agricultural lands to ensure sustainable food supply, to protect the value and character of open countryside and to support the diversification of rural economies to create additional jobs and maximise opportunities in emerging sectors, such as agri-business, renewable energy, tourism and forestry enterprise is supported.

**Regional Policy Objective (RPO) 4.8:** 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 settlements.

#### 5.4. **Fingal Development Plan 2023-2029**

#### 5.5. **Land Use Zoning Objective**

- 5.5.1. Under the Fingal Development Plan 2023-2029, the site is within an area High Amenity (HA) zoning objective which seeks 'To protect and enhance high amenity areas.'
- 5.5.2. Residential use is permissible in principle subject to compliance with the Rural Housing Strategy of the Development Plan, under this zoning objective.

#### 5.6. **Housing in Rural Fingal (Section 3.5.15)**

- 5.6.1. This section of the Plan provides an overview with respect to the provision of housing in rural Fingal. The Plan sets out that the Plan seeks to strike a balance in terms of promoting sustainable rural development whilst also ensuring the protection of Fingal's rural heritage, landscape and countryside, in accordance with national and regional policy:

**Objective SPQHO54 – Vehicular entrances** - 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 SPQHO55 – Preservation of roadside hedging and trees** 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.

#### 5.7. **Fingal Settlement Strategy Rural Generated Housing Need (Section 3.5.15.3)**

- 5.7.1. The rural settlement strategy includes the following relevant provisions:
- 5.7.2. **Table 3.3** sets out maximum number of houses which will be permitted per existing house. The table includes a limit of 1 no. additional dwelling for lands subject to High Amenity zoning objective.

**Objective SPQHO73 – Maximum Number of Incremental Houses in HA or GB Zoned Areas** -Permit a maximum number of one incremental house for those who

meet the relevant criteria set out in this chapter and Chapter 14 within areas with the zoning objective HA or GB plus one house for a person with exceptional health circumstances.

**Objective SPQHO74 – Houses in HA Zoned Areas** - Permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.

**Objective SPQHO76 – Additional Dwellings per Farm Family** Permit up to two additional dwellings per farm family in areas with the zoning objective, RU, and one additional dwelling per farm family within areas with the zoning objective GB or HA, where the applicant demonstrates their direct participation in running the family farm and is considered to have a demonstrated need related to the working of the farm to reside on the family farm.

**Objective SPQHO77 – Members of Family Actively Involved in Running of Family Farm** In exceptional circumstances in the RU zoning where two members of the family (excluding the occupier of the family farm) are actively engaged in the running of the family farm, permission may be considered for both. Documentation in support of an application must reflect the requirements set out under Chapter 14 Development Management Standards.

**Objective SPQHO78 – Primary Residence Criteria** Demonstrate that any proposed dwelling is for use as the applicant's primary residence and the proposed dwelling will be located on a farm where the applicant's family currently resides.

**Objective SPQHO80 – Family Farm Criteria** of the applicant's family for a minimum of three years preceding the date of the application for planning permission. The applicant will be required to demonstrate full compliance with all relevant standards set out in Chapter 14 Development Management Standards. In particular, the applicant will be required to demonstrate the following in relation to their working of the family farm:

i. The applicant is a member of a family which operates a farm within the rural area of Fingal, and is actively engaged in farming the family farm. Verifiable documentary evidence (such as dated and stamped Land Registry Documentation) showing details of the farm ownership, details of the family relationship with the farm owner,

and the nature of the applicant's involvement in farming the family farm will be required.

- ii. The farm on which the application for planning permission for a rural house has been submitted has been a working and actively-managed farm in the ownership of the applicant's family for a minimum of three years preceding the date of the application for planning permission.
- iii. The location of the family home on the existing farm.
- iv. The location of all other houses on the family farm which have been granted planning permission since the 19th October 1999. Submission details will include the date of grant of planning permission and the Council's file Register Reference under which any Planning Permissions were granted.
- v. The family farm has been a working farm for the preceding three years. The criteria which are considered to constitute a working farm and the size thresholds for various types of farms are set out below. The minimum threshold area of a farm excludes the area of the farm occupied by the farm yard and farm buildings, the area of the existing family home and its curtilage, and the area of the site of the proposed dwelling.
- vi. Documentary evidence that the applicant resides on a working family farm within the planning application.

Documentary evidence (i.e., of a working farm) which is required is detailed below:

- a) For livestock (including equestrian), tillage and mixed livestock/tillage farms:
  - i. A Herd Number or other Business Number which is allocated by the Department of Agriculture, Food and the Marine.
  - ii. Single Farm Payment details for the preceding three years.
  - iii. A GLAS number for those farmers who participate in the GLAS Scheme (or any subsequent scheme).
  - iv. A Forestry number for those farmers who manage forestry.
  - v. For dairy farms, details of the previous years' supplies to a milk processor.
- i. For equestrian farms, depending on the type of equestrian farm, current horse training licences issued by the Irish Turf Club, racing licences, documentation

demonstrating that the farm is a recognised teaching school, records of bloodstock sales, details of stud production for the preceding three years or equine identification documents, i.e., passports issued by Horse Board Ireland or by Wetherbys.

c) Size thresholds for farms:

The minimum size for an active livestock, tillage, or mixed livestock/tillage farm is 15 hectares.

The minimum size for a horticultural farm is: For a vegetable farm, 6 hectares.

For an apple farm, 13 hectares.

For glasshouse production, 0.4 hectares.

Applications for planning permission will be considered where the documentary evidence clearly and comprehensively demonstrates that a farm has been an active and viable holding for the preceding three years, even though it falls below the thresholds set above, or is a specialist operator not of the types described above.

The applicant must demonstrate a need for the applicant to be resident on the farm in such cases.

## 5.8. Section 14.12.2 Design Criteria for Housing in the Countryside

### 5.8.1. This section of the Plan includes the following relevant provisions.

**Objective DMSO41 – New Dwellings in Rural Areas** Ensure that new dwellings in the rural area are sensitively sited, demonstrate consistency with the immediate Landscape Character Type, and make best use of the natural landscape for a sustainable, carbon efficient and sensitive design. A full analysis/feasibility study of the proposed site and of the impact of the proposed house on the surrounding landscape will be required in support of applications for planning permission.

**Objective DMSO42 – Housing in Greenbelt or High Amenity Zoned Land -** Ensure that any planning application for a house within an area which has a Greenbelt or High Amenity zoning objective is accompanied by a comprehensive Visual Impact Statement.

**Objective DMSO43 – Siting of New Dwellings in a Rural Area** Encourage new dwellings in the rural area to be sited at a location in close proximity to the family

home where the drainage conditions can safely accommodate the cumulative impact of such clustering and where such clustering will not have a negative impact on the amenities of the original house. Where this arrangement is clearly demonstrated not to be available, permit the new dwelling to be located on an alternative site which is within two kilometres from the family home, or, where the applicant has land zoned HA within 2 km from the family home and this arrangement is demonstrated not to be available to build, and the applicant has land zoned RU on lands within 3.5 km of the family home, permit the new dwelling to be located on the RU zoned site which is within 3.5 km of the family home, or, in the case of applications made under Objective SPQHO83 within five kilometres outside Noise Zone A and subject to the East/West of the M1 stipulation.

#### **5.9. Development Plan Standards (Section 14.12.7) New Housing for Farm Families**

Planning permission will be considered for one incremental house in areas which have the HA or GB zoning objective, and up to two houses in areas with the RU zoning objective, on a family farm for close family members who are demonstrated to be actively and directly engaged in the running of the family farm. In recognition that farming is no longer a full-time occupation for many farmers, consideration will also be given to farmers whose income is supplemented by off-farm work. In all applications for planning permission for a rural house on the basis of involvement in an existing farm, proof of direct participation in farming must include verifiable evidence of family ownership of a working farm. As part of an application, the Applicant will be required to demonstrate the following in relation to their working of the family farm.

#### **Objective DMSO44 – New Housing for Farm Families**

- 5.9.1. This policy sets out a range of criteria, reflecting in full the criteria identified under Objective SPQHO80 of this Plan.
- 5.9.2. Table 14.9 of the Development Plan includes Design Guidelines for Rural Dwellings to which applications should also align.

#### **5.10. Natural Heritage Designations**

- 5.10.1. There are no European sites within the subject site.

5.10.2. The site is located within 900m of the Riverstown stream (EPA Code: 08R09) which feeds into the River Nanny Estuary and Shore SPA (Site Code: 004158), located within 16.3km to the north-east of the subject site.

5.10.3. The closest European sites to the subject site are the River Boyne and River Blackwater SAC (Site Code: 002299) and River Boyne and River Blackwater SPA (Site Code: 0042332), located within 14.9km to the north of the site.

## **5.11. EIA Screening**

5.11.1. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or EIA determination, therefore, is not required. (Form 2, Appendix 1 refers).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A First Party Appeal has been lodged on behalf of the Applicant on the 16<sup>th</sup> August 2024, the grounds of which can be summarised as follows:

- The decision of the Planning Authority is considered unreasonable, as the applicant is an active farmer with a bona fide housing need.
- The applicant's housing need, on the basis of forming part of a farming family is supported in the Development Plan (Objectives SHQH050, SHQH073, SHQH076 of the Plan refer).
- The Planning Authority has not sufficiently assessed the subject development proposal.
- The proposed dwelling is located at an appropriate location within the family farm, integrating with existing buildings and structures.
- The documentation reiterates that the applicant's place of residence is within his parent's home (dwelling to the east of the overall landholding).

- The appeal notes that the existing dwelling to the immediate west of the subject site is occupied by the applicant's uncle.
- There are conflicting objectives in the Development Plan with respect to the provision of rural housing.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority confirmed that they have no further comment with respect to the subject appeal; and request that the Board uphold their decision to refuse planning permission.
- 6.2.2. In the event that the Board decide to grant permission, it is recommended that a financial contribution and/or Bond in accordance with Fingal County Council's Section 48 Development Contribution Scheme is applied by condition.

## **6.3. Observations**

None.

## **6.4. Further Responses**

None.

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, including the report of the local authority, having inspected the site and having regard to the relevant local and national policies and guidance, I consider the main issues in this appeal relates are as follows:

- Compliance with Development Plan / Rural Housing Strategy
- Other Matters

## **7.2. Compliance with Development Plan / Rural Housing Strategy**

- 7.2.1. As noted above, the Planning Authority issued a decision to refuse permission for the subject development (dated 8<sup>th</sup> May 2024), for, inter alia, non-compliance with

the Rural Settlement Strategy and High Amenity zoning objective applicable to this site.

- 7.2.2. Specifically, the Planning Authority considered that the application documentation as submitted had not satisfactorily demonstrated that the Applicant's housing need cannot be satisfied through the second residential property within the family farm/landholding.
- 7.2.3. By way of summary, the proposed development relates to the provision of a bungalow dwelling on lands within the overall family farm /landholding of the Appellant. The planning application documentation refers to two (2 no.) residential dwellings, to the south of the L110, a bungalow referred to as the 'family home' (residence of the Applicant's parents, William and Noreen Shanahan); and a secondary single storey dwelling to the immediate west of the proposed dwelling.
- 7.2.4. The application documentation refers to this dwelling as being in the ownership of the Applicant's parents, and the residence of the Applicant's uncle. The Appellant has not included any additional information within the First Party Appeal as received by the Board, as to why the Appellant cannot reside within this property; other than reconfirming that he resides with his parents.
- 7.2.5. Based on the information as submitted with this application and subsequent appeal, I consider that, in principle, the proposed addition of a single dwelling on the subject family farm is supported by Objectives SPQHO73, SPQHO74, SPQO76, SPQHO80 and s.14.12.7 of the Development Plan.
- 7.2.6. It is also considered that the Appellant meets the Family Farm Criteria, as set out under Objectives SPQHO80 and DMSO44 of the Development Plan.
- 7.2.7. Notwithstanding, as detailed above, the subject proposal relates to a second additional dwelling on the family farm (third overall), taking account of the two subject dwellings within the family farm/landholding.
- 7.2.8. Based on the information as outlined above, I am not satisfied that there is sufficient information or evidence, to clarify why the First Party cannot utilise the second residential property on the family farm/landholding to meet his rural housing need.
- 7.2.9. In my opinion, the proposed dwelling constitutes in effect, a second additional dwelling within the family farm, contrary to Objectives SPQHO73, SPQHO76 and



sections 3.5.15.3, 3.5.15.4, and 14.12.7 of the Development Plan. Based on the above, I recommend that planning permission be refused for this reason.

### **Conflicting Objectives**

- 7.2.10. The First Party appeal states that there are conflicting objectives relating to rural generated housing (referring to SPHQO74, SPHQO76, SPHQO77 and section 14.12.7 of the Plan). Having reviewed the relevant provisions of the Plan, I consider the commentary of the appellant with respect to SPHQO77 to be inaccurate and, noting that this policy relates only to lands which are subject to Rural (RU) zoning objective under the Development Plan.

### **7.3. Other Matters**

- **Site Access**

- 7.3.1. The proposed development includes a direct access to the subject site from the L110 local road. From a review of the file and site visit, and as referenced in the report of the Transportation Department of Fingal County Council, the L110 road includes a series of bends on the approach to the subject site.
- 7.3.2. Notwithstanding, there is a series of established accesses to properties within the family farm, including to the immediate east and west of the subject site.
- 7.3.3. The Development Plan also presumes against the opening up of new vehicular entrances for new rural dwellings (Objective SPQO54 refers).
- 7.3.4. In my opinion, the inclusion of joint or shared vehicular access to the subject site, to be agreed with the Planning Authority, could overcome this matter. In this context, the Report of the Transportation Planning Section recommends the inclusion of the following;
- A revised layout detailing the proposed access to the development should be provided where the access is either located adjacent the existing entrance to the cottage to the west or modifies the existing entrance to the cottage to become a shared entrance for both developments. All works required should be detailed within the red line boundary and written consent to carry out the works should be provided.
- 7.3.5. In conclusion, in the event that the Board decide to grant permission for the subject proposal, I recommend that the above is also included by way of Condition.

- **Design**

7.3.6. Having reviewed the application pack, including drawings as submitted, it is noted that the proposed dwelling meets or exceeds all relevant standards for a new rural dwelling (Objective DMSO43 refers).

- **Visual Impact Assessment**

7.3.7. The application is accompanied by a Visual Impact Assessment of the proposed development.

7.3.8. The site is located within the Garristown Highly Sensitive Landscape of the Development Plan; and within the 'High Lying Agriculture' Character Area.

7.3.9. The site is characterised with a marginal slope from the public road at the north-east towards the south-west of the subject site. The proposed dwelling has a maximum height of 6m and utilises a range of natural local materials including natural stone, natural slate and lime plaster. The dwelling comprises two separate built forms, linked by a single storey entrance hall. The site will also be screened by proposed landscaping to the immediate east of the subject site.

7.3.10. The subject dwelling has been sited between an established dwelling to the west and agricultural buildings to the east. In my opinion, the siting of this dwelling within the existing complex of structures adjacent to the L110 access road, will ensure the integration of the proposed dwelling at this location, with a negligible impact to the visual amenities of the site and environs.

7.3.11. It is therefore considered that the design and siting of the proposed development accords with Objectives DMSO43 and SPQO85 Development Plan and would be acceptable with respect to the landscape and visual amenities of the subject site and environs.

- **Effluent Treatment System**

7.3.12. It is proposed to install an on-site effluent treatment system with a percolation area to serve the proposed development.

7.3.13. From a review of the documentation, it is noted that the Applicant's Site Characteristics Form confirms that the site is located in an area with a highly vulnerable locally important aquifer. The trial hole depth was 3.2m and the soil types

are noted to consist of silt/clay within the surface with clay intermixed with stone within the subsurface. Bedrock or groundwater/winter groundwater was not encountered in the trial hole.

- 7.3.14. The form indicates the site to have a sub-surface value of 24.72/25mm and surface value-rating of 11.84min/25m, noting good percolation characteristics of both.
- 7.3.15. The applicant proposes to install the effluent treatment system to the south-east of the dwelling and with a percolation area within the southern end of the site. I note that the Environmental Health Department of Fingal County Council had no objection to the proposed site conditions.
- 7.3.16. Based on the information as submitted, and in the event that the Board decide to grant permission for the proposed development, I am satisfied that the site can accommodate waste water on site, and that the proposed development would not be prejudicial to public health.

## **8.0 AA Screening**

- 8.1. The Planning Application includes an Appropriate Assessment Screening Report (Stage 1) which concludes that a Stage 2 AA is not required. Fingal County Council also concludes that AA is not required in this instance.
- 8.2. I have considered the proposed residential bungalow with effluent treatment system in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 8.3. The site is located within 950m of the Riverstown stream (EPA Code: 08R09) which feeds into the River Nanny Estuary and Shore SPA (Site Code: 004158), located within 16.3km to the north-east of the subject site.
- 8.4. The closest European sites are located in River Boyne and River Blackwater SAC (Site Code: 002299) and River Boyne and River Blackwater SPA (Site Code: 0042332), both located within 14.9km to the north of the subject site.
- 8.5. The proposed development comprises Permission for a residential dwelling with effluent treatment system and all ancillary works at Newtown, Garristown, Co. Dublin.
- 8.6. No nature conservation concerns were raised in the planning appeal.

8.7. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion relates to:

- The limited extent of works forming part of this project.
- The lack of any hydrological pathways and connectivity between the sites.
- The distance of the project to the closest European Site.

8.8. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.9. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

9.1. I recommend that permission be refused for the reasons and considerations stated below.

## **10.0 Reasons and Considerations**

The site is subject to the High Amenity zoning objective, which seeks “To protect and enhance high amenity areas” in the Fingal Development Plan 2023-2029.

Having regard to the two (2 no.) existing dwellings within the family farm, the proposed dwelling would exceed the limit of one (1 no.) incremental house on lands which are subject to High Amenity zoning objective, and would therefore be contrary to Objectives SPQHO73, SPQHO76, sections 3.5.15.3 (Fingal Rural Settlement Strategy Rural Generated Housing), 3.5.15.4 (New Housing for Farm Families), and 14.12.7 (Development Management Standard for New Farm Families) of the Fingal Development Plan 2023-2029. The proposed development 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.

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Aoife McCarthy  
Planning Inspector

2<sup>nd</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	320267-24		
<b>Proposed Development Summary</b>	Bungalow dwelling with septic tank and all ancillary works		
<b>Development Address</b>	Newtown, Garristown, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>			No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10(b)(i) Construction of more than 500 dwelling units – Sub Threshold.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320267-24	
Proposed Development Summary	Construction of a dwelling with domestic septic tank, vehicular access and all ancillary works.	
Development Address	Newtown, Garristown, Co. Dublin	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject site forms part of lands in agricultural use, including series of dwellings and agricultural sheds. There is an established vehicular access serving the site.</p> <p>The application will include the removal of subsoil to facilitate the proposed dwelling and septic tank. Localised construction impacts will be temporary.</p>	<p>No</p> <p>No</p>
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The proposed development relates to a single residential dwelling with septic tank on lands in agricultural use.</p> <p>There are no significant permitted developments in the vicinity of the site.</p>	<p>No</p> <p>No</p>



<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>An AA Screening exercise has been undertaken which has concluded that the proposed development does not have the potential to have significant impacts on any European sites.</p> <p>No</p>	<p>No</p> <p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		

**Inspector:**

**Date:**

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**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)