



An
Bord
Pleanála

Inspector's Report

ABP 320813 - 24

Development

Permission for removal of portion of existing outhouses and construction of single storey detached residence to include connection to existing septic tank & percolation area and associated site works.

Location

Ballaghstown, Lusk, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F42A/0580E

Applicant(s)

Kazimierz Andrzej Onuch.

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Kazimierz Andrzej Onuch

Observer(s)

None

Date of Site Inspection

25th November 2024.

Inspector

Aisling Dineen

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	9
5.1. Fingal Development Plan 2023 - 2029	9
5.2. Natural Heritage Designations	13
5.3. EIA Screening	13
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Applicant Response	15
6.3. Planning Authority Response	15
6.4. Observations	15
6.5. Further Responses.....	15
7.0 Assessment.....	15
8.0 Recommendation.....	22
9.0 Reasons and Considerations.....	22

Appendix 1 – Form 1: EIA Pre-Screening

Form 2

1.0 Site Location and Description

- 1.1. The site is situated in a rural area, which is characterised one off rural dwellings and farmsteads and which is serviced by a narrow meandering country road, in Ballaghstown, Lusk, Co. Dublin.
- 1.2. The site contains a number of outbuilding type structures and a greenhouse. Access is via a site entrance, which is removed from the actual site and which appears to be connected to the site via a right of way. The access contains 2 large gates, which are of industrial character.

2.0 Proposed Development

- 2.1. The application proposed the removal of a portion of the existing outhouses and the construction of a single storey dwelling house, which is proposed to be connected to a stated existing septic tank.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to refuse permission on the 20th August 2024 for the following reasons:

1. The proposed development is located within an area zoned as RU rural, as set out in the Fingal Development Plan 2023 – 2029, which has the zoning 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 of the Fingal Development Plan 2023-2029 seeks, inter alia, to – Permit housing development within the countryside only for those people who have a genuine rural generated housing need in accordance with the councils rural housing policy’. As such, the Fingal Rural Settlement Strategy for rural generated housing need is outlined under Section 3.5.15.3 of the Fingal Development Plan 2023 -2029. The applicant has indicated the application is made under the ‘Involved in the family farm’ criteria in accordance with the Fingal Rural Settlement Strategy

and relates to a horticultural farm. Therefore, objective DMSO44 of the Fingal Development Plan 2023 – 2029 is considered relevant. The applicant has not submitted sufficient verifiable documentary evidence to demonstrate compliance with objective DMSO44 of the Fingal Development Plan 2023-2029 and has not demonstrated to meet the eligibility criteria under ‘Involved in the family farm’ for a one-off house in rural Fingal. As such, the applicant has not demonstrated to be in compliance with the Fingal Rural Settlement Strategy and the proposal is considered to materially contravene the ‘RU’ rural zoning objective and policy SPQHP46 of the Fingal Development Plan 2023 2029 and therefore would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would endanger public safety by reason of a serious traffic hazard as the required sightlines in accordance with TII DN-GEO-02060 cannot be achieved and there is not provision for safe navigation within the site for future occupants. The proposed development would be contrary to the proper planning and sustainable development of the area.
3. The proposed development would utilise an existing septic tank treatment system which serves another dwelling. The proposal is unacceptable. Based on the site configuration, the planning authority is not satisfied that it is feasible to provide a dedicated on-site treatment system to serve the proposed development. The development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

The Chief Executive’s decision reflects the planner’s report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report outlines relevant policy applicable to the subject site.
- It notes the category of housing need under section 8 of the supplementary form, which seeks to obtain permission under the following category ‘actively engaged in farming the family farm’.

- The reports lists various documents, bills, hospital appointments etc but not considers that there is clear documentary evidence that the applicant has been actively engaged in farming a family farm for three years.
- The recommendation by the Planning Transportation Dept and Water Services to refuse permission is considered.
- A recommendation to refuse permission was made.

3.2.2. Other Technical Reports

Water Services Dept

- The sharing of septic tanks between dwellings is not recommended.
- Given the extent of the pre-existing site development, it is considered neither feasible nor appropriate to install an additional domestic waste water treatment system on the site.
- Surface water proposals acceptable subject to conditions.
- Refusal recommended.

Transport Planning Dept

- A sightline drawing has not been submitted with the application and sightlines in accordance with the required standards have not been demonstrated. From a site visit it is observed sightlines are substandard and not in accordance with TII DN-GEO-03060. In its current format the proposed development is considered a traffic hazard.
- In 80 km/hr speed zone.
- The site layout is unclear, and the Transportation Planning Section have concerns over safe access of residents throughout the site. There is no safe access route demonstrated for proposed for residents to navigate the site safely. Due to the potential movement of large agricultural vehicles in close proximity to the dwelling and a lack of safe access routes for occupants, the subject development is considered a traffic hazard.
- Refusal recommended

Parks Landscaping Infrastructure Dept

- Table 14.9: Design Guidelines for Rural Dwellings is referred to.
- Policies SPQH090 (Entrances & Boundary Treatment) and SPQH091 (Hedgerows) referred to.
- Additional Information recommended.

3.3. Prescribed Bodies

Uisce Eireann – No objections subject to conditions.

3.4. Third Party Observations

The following made an observation to the planning application:

Sheila Gallen & Robert Richardson

Cathy & Alf Byrne

Debbie & Steve Peters

Ciara & Brenda Darcy

The observation may be summarised as follows:

- The application does not meet the Councils rural housing policy criteria as noted in the decision to refuse planning previously under Plg Reg Ref F23A/0605.
- The site has only been in ownership since April 2024 and there is no family home.
- There is no planning permission applied for or granted for septic tank system on the site.
- There is ongoing planning enforcement issues on the site.

4.0 Planning History

Planning Register Reference No F23A/0605

Refuse permission for retention for the following development description: Retention for 4 No prefabricated dwellings and associated site works at Ballaghstown, Lusk, Co. Dublin. Applicant: Kazimierz Andrzej Onuch & Ewa Kamikula.

Retention was refused for the following reasons:

1. The proposed development is located within an area zoned as 'RU – Rural' as set out in the Fingal development Plan 2023 -2029 and which seeks 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 of the Fingal Development Plan 2023 - 2029 seeks inter alia to 'permit housing development within the countryside only for those people who have a genuine rural generated housing need in accordance with the Councils rural housing policy'. The applicant has not submitted documentary evidence to demonstrate satisfactory compliance with policy SPQHP46, or to demonstrate compliance with the Fingal Rural Settlement Strategy rural generated housing need as set out in section 3.5.15.3 of the Fingal Development Plan 2023 – 2029 or with the requirements of Table 3.5 criteria for Eligible Applicants from the Rural Community for Planning Permission for new rural housing. Accordingly, and in the absence of such verifiable documentary evidence, the development as proposed would be contrary to Objective 19 of the National Planning Framework and would contravene materially a development objective in the Fingal Development Plan 2023 – 2029 with regard to the Fingal Rural Settlement Strategy and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would seriously injure the visual amenity of the rural area, would be substandard in relation to design and would set an undesirable precedent in the area. The proposal to be retained is visually unacceptable and would seriously injure the rural character of the area and such would be contrary to the proper planning and sustainable development of the area.
3. The proposed development by reason of the substandard nature of the accommodation provided, including the overall floorspace provision, the lack of internal storage and the absence of private open space, would result in a poor quality living environment for residents of the structure and would consequently seriously injure the residential amenity of the area, would contravene objective DMSO19 of the Fingal Development Plan 2023-2029

and would therefore be contrary to the proper planning and sustainable development of the area.

4. The proposed development would endanger public safety by reason of serious traffic hazard as the required sight lines cannot be achieved. The proposed development to be retained would be contrary to the requirements of objective DMSO118 of the Fingal Development Plan 2023 – 2029 and would therefore be contrary to the proper planning and sustainable development of the area.
5. As a consequence of the insufficient information submitted relating to the on-site waste water treatment it cannot be concluded that the proposed development would not cause serious water pollution, and for that reason would be a serious danger to human health and to the environment and would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Fingal Development Plan 2023 - 2029

The following are provisions of the plan, which relate to the current appeal.

The site is located within the Zoning Objective 'RU' RURAL 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.

Section 3.5.15 – Rural Settlement.

- SPQHP45 to provide viable options for the rural community through the promotion of appropriate sustainable growth of the rural villages and clusters, balanced by carefully controlled residential development in the countryside,
- SPQHP46 to 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 a genuine rural generated housing need in

accordance with the Council's Rural Housing Policy and where sustainable drainage solutions are feasible.

- SPQHP50 to ensure that the agricultural identity of North Fingal is safeguarded, promoting the rural character of the County and supporting the agricultural and horticultural production sectors relating to rural settlement.
- SPQHO55 Preservation of roadside hedging and trees.
- Objective DMSO200 – EPA's Code of Practice for Domestic Wastewater Treatment Systems: Domestic effluent treatment plants and percolation areas serving rural houses or extensions shall comply with the requirements of the EPA's Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent (Population Equivalent <10), 2021, or as amended. The area required to install a Domestic Wastewater Treatment Plant and percolation area is subject to the separation distance requirements of the EPA CoP being achieved and adequate space for SuDS being provided.

Section 14.12.6 Development within Rural Clusters

Applications for development shall demonstrate compliance with the drainage and design standards required for on-site water-water treatment systems set out under Section 14.20.2 Rural Housing – Wastewater Treatment where a connection to public waste-water infrastructure is not available. Where a connection to public wastewater infrastructure is available, the overall site area shall not be less than 0.125 hectares.

Section 3.5.15.3 Fingal Rural Settlement Strategy

Rural Generated Housing Need is considered to be housing needs of people who have long standing existing and immediate family ties, or occupations which are functionally related to the rural areas of the County.

Objective DMSO44 – New Housing for Farm Families

Demonstrate that the farm 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. The applicant is 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:

Horticulture Category:

- Confirmation of involvement in the Quality Assurance Scheme managed by An Bord Bia for the previous three years.
- Evidence of investment within the farm to demonstrate its current active engagement in the horticulture sector.

- Details of the supply of product from the farm which demonstrates that the applicant was supplying substantial produce to market in the preceding year.

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 to be resident on the farm in such cases.

1.3.4 High Quality Design

In rural areas of the County, this Plan seeks to ensure sustainable patterns of development and high quality of design so that these areas remain attractive and retain their rural character.

14.12.3 Design Guidelines for Rural Dwellings

The following are relevant excerpts from Table 14.9

Where hedgerows or native planting exist around the site, the proposed development should be designed so that they are retained and augmented as far as practical.

Boundary treatment should reflect local traditions for similar buildings where applicable

The design of entrance gates should be in keeping with the rural setting and look to traditional agricultural gate forms and styles.

Entrances which are not demonstrated to be in character with the rural location of the proposed development will not be permitted.

Domestic wastewater treatment plant and percolation areas must comply with the requirements of the Code of Practice Wastewater Treatment Systems Serving Single Dwellings (EPA) as set out in Section 14.20.2 Rural Housing – Wastewater Treatment. These details should be included in any application for a new or replacement dwelling or an extension to an existing dwelling where there is an increase in demand on the treatment capacity of any existing system.

All applications for planning permission must include (at a minimum scale of 1:500) comprehensive details of the way in which access to the site can be provided in a satisfactory way. Where satisfactory access can be achieved only by removing large stretches of roadside hedgerow/ditches/stone boundaries, an alternative site for the proposed development should be sought.

5.2. Natural Heritage Designations

The closest European Sites are Rogerstown Estuary SAC (Site code 000208) and Rogerstown Estuary SPA (Site Code 004015) situated c.4 km south of the site and Skerries Islands SPA (Site code: 004122), which is situated 5 km northeast of the site. There are no direct hydrological connections from the site to this conservation site.

5.3. EIA Screening

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 may be summarised as follows:

Reason 1:

- The applicant wishes to construct a dwelling to replace existing temporary accommodation/the applicant currently lives at this location.
- The applicant derives income from the green house at this location.
- The applicant worked at the Greenhouse since 2011, leased it from 2014 and purchased it 2024.

- It is intended to replace temporary accommodation with a new permanent dwelling.
- The applicant was diagnosed and is being treated for throat cancer.
- Hospital appointment records, disability allowance, bills paperwork are on file identifying him as residing at this location.
- The site comprises 4 temporary mobile home type accommodations to be removed and a large greenhouse, outbuildings and a water irrigation tank.
- Access is proposed via an existing vehicle entrance across an existing vehicle right of way.

Reason 2:

- The proposed entrance is via an existing large vehicle entrance gate which was originally intended to facilitate the movement of agricultural machinery at the large greenhouse farm unit.
- The site and entrance are situated on a very narrow roadway, which seriously inhibits speed.
- This entrance functioned for 30 years for this purpose and suddenly it is deemed unacceptable by the local authority regarding sightlines and stopping distances.
- Safe navigation within the site can be fulfilled with separate vehicle accessways to the proposed dwelling and to the glasshouse unit. Drawings can be provided should the board overturn the decision.

Reason 3:

- It is intended to remove all habitable accommodation on site in favour of the proposed domestic dwelling.
- It is argued that the assessment infers that the proposal would comprise two dwellings but there will be one dwelling.
- There is more than sufficient space to install a new waste water treatment plant as the site area is 5262 sq. should the board request it.

6.2. **Applicant Response**

Applicant is the appellant.

6.3. **Planning Authority Response**

- There is no existing family home on the site and the applicant has only acquired ownership of the site in March 2024.
- The proposal does not comply with criteria in objectives DMSO44 and SPQH080 of the development plan, which relate to family farms.
- The authority is satisfied that the grounds for refusal as stated in the original planner's report, dated 18th July 2024, are fully relevant.
- In the event that the appeal is successful provision should be made for relevant contributions.

6.4. **Observations**

- None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file and having regard to the 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 the planning authorities' reasons for refusal and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Rural Housing Policy
- Access Traffic Safety
- Effluent Disposal
- Other

- Appropriate Assessment

7.2. Rural Housing Policy

7.3. The area of the site is zoned RU Rural where policy aims 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.

7.4. The applicant has indicated under the supplementary form to the application form. Question 8, that he comes under the category of 'actively engaged in a family farm'. housing criteria as required under Objective DMSO44 of the development plan. Therefore, this is the category, upon which the application was assessed by the planning authority and I concur that was the correct approach.

7.5. It is noted that the appellant intends that there will be one dwelling unit on the subject site and not two dwelling units. The appellant argues that the planners report suggests more than one unit, which the appellant submits is not the case. I acknowledge that the proposal is stated to be for one dwelling house and this is also demonstrated under public notices. I note that the location of the stated existing habitable accommodation is not clearly demarcated on the documentation submitted.

7.6. The relevant policy with regard to rural settlement is stated under Section 3.5.15.3 of the plan. The relevant policy objectives under the instant appeal are objectives SPQH080 and DMS044. The criteria required are set out clearly under these objectives and they include the following, in summary: that the applicant is a member of a family farm and is actively engaged in farming the family farm, that the farm has been in the ownership of the applicant for at least three years, location of the family home to be on the existing farm, various details regarding thresholds etc.

7.7. The requirements relating to horticulture (Obj DMS044) are as follows:

- Confirmation of involvement in the Quality Assurance Scheme managed by An Bord Bia for the previous three years,
- Evidence of investment within the farm to demonstrate its current active engagement in the horticulture sector,
- Details of the supply of product from the farm which demonstrates that the applicant was supplying substantial produce to market in the preceding year.

- 7.8. By the applicant's admission he is stated to have purchased the farm in 2024. Land Registry documents are submitted verifying the applicant's ownership of the site since April 2024. There is also an affidavit on file which states that the applicant owns the land, which has attached maps. The area of land on the application form outlined in red and that attached to the affidavit corresponds to the land registry map and relates to an area of land at the back of the existing plot of land, removed from the public road by c. 100 metres, and which connects to the site by a way leave.
- 7.9. There are a number of documents submitted in relation to the applicants' stated links with the subject site, in the form of medical appointments and State allowances.. There are also invoices for waste disposal from the site. There is also insurance documentation submitted for farm insurance. One such insurance document gives the addressee as having an address in Swords and the associated land insured appears to be at Ballaghstown.
- 7.10. Overall, while there are some details on file regarding links with the area, there is an absence of clear documentary evidence demonstrating the applicant being the owner for a period of three years and there is also a lack of clear documentary evidence relating to him being actively engaged in running a family farm for three years.
- 7.11. With reference to the requirement under Policy Objective DMS044 to provide documentary evidence to support one's case, there is scant detail on file regarding the 'horticulture' business, which should be substantiated for a period of the last three years. The planning authority correctly noted that there is no 'confirmation of involvement in the Quality Assurance Scheme managed by An Bord Bia for the previous three years' on file, nor are there 'details of the supply of product from the farm which demonstrates that the applicant was supplying substantial produce to market in the preceding year'.
- 7.12. Given the clear lack of documentary evidence on file, it is considered that the applicant does not satisfy the requirement to have ownership of the 'family farm' or that he has been farming the farm, in his ownership, for a period of three years. The fact that the applicant is stated to have worked on the property, and leased the property in question for a period of years, does not satisfy this requirement of the development plan policy.

- 7.13. The submission of the planning authority to the appeal states that 'there is no existing home on the site'. Having inspected the site it was apparent that there were a number of outbuildings/sheds and a greenhouse structure. It was not apparent that there was a habitable dwelling unit on the site.
- 7.14. Overall, the applicant is demonstrated to be a recent owner of the land, i.e. less than three years, and the documentation and information relating to a working engaged horticultural farming business, in the ownership of the applicant, is scant.
- 7.15. The appellant submits that the applicant is currently suffering from a form of cancer and that hospital records indicate that he is living on the subject land. Whilst I acknowledge the health difficulties being experienced by the applicant, it is noted that Part 8 of the Supplementary Application Form, indicates that the application is being made under the category 'Actively engaged in farming the family farm' and it is under this category that the application/appeal is being assessed.
- 7.16. Therefore, it is submitted that based on the level of detail on file, it is considered that insufficient information is submitted to demonstrate compliance with policy DMS044 and SPQH080. Therefore, I concur with the planning authority and I recommend that a refusal be issued regarding rural housing policy.
- 7.17. Access and Traffic Safety
- 7.18. The appellants submissions states that the established entrance functioned for 30 years at this site and questions it is suddenly deemed unacceptable by the local authority regarding sightlines and stopping distances. The appellant also submits that the road is narrow and that this inhibits speed.
- 7.19. Providing safe access to and from a dwelling is an important aspect of the assessment of any planning application. The fact that there is an existing entrance for an agricultural related use on the subject site does not negate the requirement to meet the prescribed standards in terms of traffic safety. Table 14.9 of Section 14.12.3 of the development plan provides that: 'All applications for planning permission must include (at a minimum scale of 1:500) comprehensive details of the way in which access to the site can be provided in a satisfactory way'. It is noted that it is clearly a requirement that 'All' applications provide documentary details regarding safe access and egress.

- 7.20. The planning authority state in its refusal reason that 'The proposed development would endanger public safety by reason of a serious traffic hazard as the required sightlines in accordance with TII DN-GEO-02060 cannot be achieved'. The report of the Transportation Planning Department was concerned with two issues relating to the subject site. 1: Sight distances at the point of access to the site and 2, Safety within the site relating to both agriculture traffic and traffic related to the proposed domestic dwelling.
- 7.21. It is noted that there is no demarcation or boundary treatment presented under the planning application/appeal documentation, which provides a traffic plan or detailed site layout demarcating movement of both categories of vehicles within the site. I consider that this situation would be a traffic hazard and would also present as a haphazard form of development at this location. Therefore, I concur with the Transportation Planning Departments position on this issue.
- 7.22. Regarding the issue of sight distances at the point of entry to the site, there are no sight lines demarcated on any drawings submitted. Having inspected the site it was noted that the proposed site entrance is between two bends on a narrow road, where visibility especially in a west direction is seriously restricted.
- 7.23. From the land registry details submitted it is also noted that the area of land at the access is not within the ownership of the applicant and therefore even if it were possible, without prejudice, to achieve improved sight distances in this direction, without compromising on Objective SPQH091 regarding the retention of hedgerow, there is no indicated permission on the file to carry out such works.
- 7.24. While it is noted that policy stated under section 14.17.5 of the plan, prefers intensification of use of existing accesses over the development of new access points in rural areas, in this instance, whereby sight distances are seriously restricted, I am of the viewpoint that the intensification of use of this access, in the absence of clearly demonstrated and achievable sight distances, would be prejudicial to public safety by reason of traffic hazard. Therefore, I concur with recommendation of the planning authority in this regard also.
- 7.25. Effluent Disposal

- 7.26. There are no details submitted with respect to the site and the safe disposal of domestic effluent. There is no EPA Site Characterisation Assessment Report on file and therefore it does not appear that any trial holes were dug or examined.
- 7.27. Policy Objective DMSO200 and policy stated under Section 14.12.6 of the plan require compliance with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (2021). Additionally, under section 14.12.3 of the plan and under table 14.9, it is clearly stated relating to the CoP that; 'These details should be included in any application for a new or replacement dwelling or an extension to an existing dwelling where there is an increase in demand on the treatment capacity of any existing system'.
- 7.28. Accordingly, information regarding the PE (population equivalency) of the proposed dwelling is not submitted. There is no site-specific section profile of the proposed system on the appeal site in relation to minimum distances and other boundaries/features and other structures on site. There is no details regarding topographic features in the area, such as wells/karst features etc./proximity to other septic tanks/polishing filters etc and whether any vulnerable receptor is located upstream or downstream from the treatment unit. Site levels cannot be assessed in relation to the potential orientation of the stated existing septic tank or a potential treatment system and polishing filter. The CoP specifically states under para 6.6 that the type, location and installation requirements for each system should be very clearly set out in the report, highlighting the importance of site levels and the integration of finished floor levels with the site assessment and cross-sections showing drainage falls, soil depth below pipe inverts, etc. In all cases additional attention should be given to providing crosssections indicating invert levels of pipework etc.
- 7.29. I note there is a watercourse c. 300 south of the site, there is no detail on file as to whether there are any associated streams/tributaries/wells etc in the vicinity of the site.
- 7.30. As there is no detail whatsoever on file, regarding all of the above essential requirements, an informed assessment of the safe disposal of waste water is not possible. Additionally, I note the recommendation of the Water Services Dept to refuse permission based on waste water proposals on the site.

- 7.31. I also note that it is submitted that the proposed development is to be connected to the septic tank of a stated existing dwelling. The appellant submits to the appeal that the stated existing dwelling would be removed and there would be one dwelling overall on the site. Notwithstanding the contention that there is an existing dwelling with septic tank on the property, I consider that the EPA Site characterisation form and full assessment of the site is required and therefore I am not satisfied that sufficient detail is submitted to enable the planning authority/the board to carry out the required evaluation of same.
- 7.32. I consider that it is reasonable that the planning authority did not pursue this issue under an additional information request, in light of the substantive reasons for refusal relating to rural housing policy and traffic safety, as discussed above. In this regard, I note para 5.7 of the Development Management Guidelines (updated, Dec 2020), which refers that Requests for further information under Article 33 on one aspect of a proposal should not be sought where there is a fundamental objection to the proposed development on other grounds; applicants should not have to suffer unnecessary delay or expense if a refusal is likely.
- 7.33. I recommend that planning permission be refused on the basis that there are insufficient details submitted to demonstrate that the proposed dwelling would not be prejudicial to public health.
- 7.34. Other
- 7.35. A large industrial type set of gates is located at the entrance to the site, which are contained by two very large pillars. This industrial type entrance would not be suitable for the proposed domestic dwelling and it is noted that no alternative entrance proposal has been submitted. Section 14.12.3, Table 14.9 of the plan states the following: 'The design of entrance gates should be in keeping with the rural setting and look to traditional agricultural gate forms and styles. Entrances which are not demonstrated to be in character with the rural location of the proposed development will not be permitted'.
- 7.36. Regarding the design of the dwelling house, it is considered that it is generally satisfactory and in keeping with rural design principles. However, the backland, ad hoc nature of the location of the proposed dwelling on the site, does not accord with the requirement for 'High Quality Design' in plan, with particular regard to Section

1.3.4, which aims to achieve quality of design so that these rural areas remain attractive and retain their rural character. However, given the substantive reasons for refusal and the fact that this would be a 'new issue' the Board may rely on my recommendation to refuse permission based on the assessment above, should the board be mindful of accepting this recommendation.

7.37. Appropriate Assessment

7.38. Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

8.1. I recommend that retention permission be refused.

9.0 Reasons and Considerations

1. Having regard to the location of the site of the proposed development within an area designated 'RU – Rural' in the Fingal County Development Plan 2023-2029 and in the absence of sufficient evidence to demonstrate compliance with the Fingal Rural Settlement Strategy – Rural Generated Housing Need, it is considered that, based on the information submitted with the planning application and the appeal, that the applicant has not sufficiently demonstrated compliance with rural housing criteria as outlined in Section 3.5.15.3 and Table 3.5 of the Fingal County Development Plan 2023 - 2029. The proposed development would therefore contravene Policy SPQHP46 and objective DMSO44 of the Fingal County Development Plan 2023 – 2029 and would, thereby, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a substandard road at a point where sightlines are restricted in a west direction.
3. In the absence sufficient information on file, to demonstrate the safe disposal of waste water to serve the proposed development, in accordance with the EPA Code of Practice.....(2021), the proposed development would be prejudicial to public health and would be contrary to the proper planning

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.

Aisling Dineen
Planning Inspector
04 December 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 3208313 24		
Proposed Development Summary	Permission for removal of portion of existing outhouses and construction of single storey detached residence to include connection to existing septic tank & percolation area and associated site works.		
Development Address	Ballaghstown, 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	X
		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	X		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		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10, (b), (i)	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 Number	ABP 3208313 24
Proposed Development Summary	Permission for removal of portion of existing outhouses and construction of single storey detached residence to include connection to existing septic tank & percolation area and associated site works.
Development Address	Ballaghstown, Lusk, 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>	
Characteristics of proposed development	The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development	The proposed development is for a dwelling house in an urban spatial context. There are existing dwelling houses in proximity to the site. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature. The development would not result in the production of any significant waste, emissions or pollutants.
Types and characteristics of potential impacts	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant

		effects on the environmental factors listed in section 171A of the Act.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	NO
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector: Aisling Dineen Date: 4th December 2024

DP/ADP: _____ Date:

(only where Schedule 7A information or EIAR required)

Inspector: _____ Date: _____