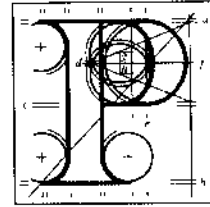


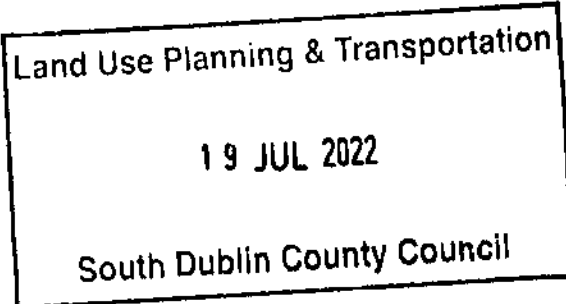
Our Case Number: ABP-314085-22

Planning Authority Reference Number: SD22A/0117



**An
Bord
Pleanála**

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24



Date: 18 July 2022

Re: House, wastewater treatment system, well, 3 polytunnels in relation to proposed on-site strawberry farm enterprise and all site works.
McDonaghs Lane, Glenaraneen, Brittas, Co. Dublin

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,

Tel	Tel	(01) 858 8100
Glaao Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde Baile Átha Cliath 1 D01 V902	64 Marlborough Street Dublin 1 D01 V902
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authority decided to refuse permission, would be without prejudice to your authority's main submission in support of its decision.

Please quote the above appeal reference number in any further correspondence.


I hereby certify that the planning authority has complied with section 128 and section 37(1)(b) of the 2000 Act, (as amended), and that all material relevant to (ABP-314085-22) the request at 1 on page 1 of this letter has been forwarded.

Signed: _____

Print:(_____)

Date: _____

Yours faithfully,


Liam Halpin

Direct Line: 01-8737280

BP07

Teil
Glaio Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel (01) 858 8100
LoCall 1890 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

DESIGN & CONSULTANCY SERVICES

Email: jjwarren@dcpc.ie

ph 0877558896

12/07/22
An Bord Pleanála,
Marlboro Street,
Dublin 1

AN BORD PLEANÁLA	
LDC- <u>CS222-22</u>	
ABP- _____	
13 JUL 2022	
Fee: € <u>220</u>	Type: <u>cash</u>
Time: <u>16.40</u>	By: <u>hand</u>

The nook
Hillside,
Kilcullen
Co Kildare

First Party Planning Appeal by Annette and Alan Richie against the decision by South Dublin County Council to refuse planning permission for development at Mc Donaghs Lane Glenaraneen, Britas, Co Dublin comprising of the construction of a single storey dwelling with waste water treatment system, well, 3 no polytunnels in relation to onsite strawberry farm enterprise and all site works.

Dear Sir,

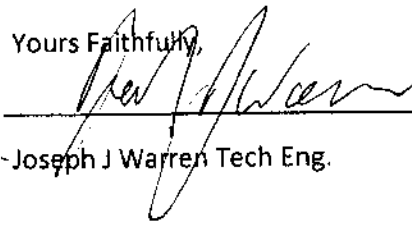
We wish to lodge this first party planning appeal against the decision by South Dublin County Council to refuse planning permission for the development at the above address and as described above.

We enclose a ^{cash} cheque made payable to An Bord Pleanála for the fee of € 220=.

We trust that Bord will look favourably on this appeal, should your require any additional information we will provide same on your request

I Remain,

Yours Faithfully,


Joseph J Warren Tech Eng.

RUCI.
Notification of Decision
Proof of Holders
Affidavit
Cash reports x2
Site Characterisation Report
Storm Water Summary Report
Planning Assessment

PLANNING APPEAL AGAINST THE DECISION BY SOUTH DUBLIN COUNTY COUNCIL (SDCC) TO REFUSE PLANNING PERMISSION FOR DEVELOPMENT AT McDONAGH'S LANE, GLENARANEEN, BRITTAS, CO DUBLIN, COMPRISING OF THE CONSTRUCTION OF SINGLE STOREY DWELLING WITH WASTE WATER TREATMENT SYSTEM, WELL, 3NO POLYTUNNELS IN RELATION TO ON SITE STRAWBERRY FARM ENTERPRISE AND ALL SITE WORKS FOR ANNETTE AND ALAN RICHIE. PLANNING REG REF NO SD22A/0117.

GROUNDINGS FOR THE APPEAL

1. The applicants believe that the information submitted in support of the application has not been fully or adequately assessed by SDCC Planning Section technical staff. The Local Authority did not acknowledge significant changes in the applicants' circumstances. Specifically in relation to her parents need for her to remain as their carer.
2. There are a number of anomalies in the Chief Executives Order regarding reports that were included in the application, in some cases the anomalies relate to inaccurate assessment and in others references to reports not having been submitted, where they clearly were included in the planning application submission.
3. The LA failed to acknowledge points raised within the application content in specific reports and drawings submitted, specifically in relation to roads issues, ribbon development and road frontage .
4. The LA consistently state that there was not insufficient justification provided by the applicants to warrant the overturning of previous reasons for refusal , this indicates that there are situations that would allow the LA grant planning permission, in this area, and we contend that the reasons put forward are sufficient .
5. The LA have stated that the proposed business plan was not adequate and the proposal was not viable, the applicants dispute the issue of the business not being viable and a revised business plan is included herewith.
6. Several of the sections within the LA recommended that additional information be sought, however a refusal was issued.
7. There has been a very significant shift within SDCC Rural Housing Policy recently where an amendment in the Draft CDP supports the provision of rural housing for family members who need to reside close to family members to care for them, the applicants suggest that this specific amendment supports their application. The applicants were instrumental in the amendment process in relation to the wording and gaining support for it from elected members of the Local Authority.

THE PLANNING APPLICATION

This planning application was preceded by a number of planning applications that were refused on this site. A considerable number of life altering issues arose that have had a serious effect on the lives of the applicants and Annette Richie's family. This application contained significant additional information that was not included in all of the previous applications and the application support document was significant, outlining the seriousness of the changes in circumstances of the Richie/Mc Donagh family.

The information referred to above was included in the application in 2021. A significant number of anomalies and errors within the LA's processing of that application, not least the inaccurate uploading of the information supporting the application, where a number of reports were excluded from the online file and significant amounts of information was left out of other reports. While pointing this out in the application, which is the subject of this appeal, we did acknowledge that the online information is subject to a disclaimer notice from the LA. However, it is obvious that the online version of the application was used by the LA technical staff in assessing the application we pointed out instances of this in the cover letter lodged on that file. We did not have sight of the Chief Executives Order, relating to the 2021 Refusal, until 2 days prior to the last date for lodging an appeal, despite numerous attempts to have it sent to us, this resulted in us being unable to appeal that decision.

CHIEF EXECUTIVES ORDER PR/0743/22PL. APP REG. REF NO: SD22A/0117

1. The Chief Executives Order outlines the planning history on the site in great detail. We will be addressing the report content that specifically relates to the subject application refusal.
2. In the first instance the CEO refers to details regarding of the applicants links to the area submitted relating to only 1 of the applicant's, Annette Richie (nee McDonagh), Annette Richie is married to the second named applicant, Alan Richie, and as such as spouse of the First named applicant he is not required to show any connection with the area, save as his marriage to Annette Richie. The fact that the documentation is dated is not relevant in relating to birth, marriage certificates or school records.
3. The need of the applicant to reside in the area is referred to in the CEO.
4. The viability of the strawberry farm is doubted by the Local Enterprise Office, we enclose a revised Business plan in support.
5. Some of the Reports referred to as outdated are of a nature that would suggest they would still be relevant.
6. The CEO refers to the area being under strong urban influence, however this development is not urban generated but related to a demonstrable social and economic need of the applicant a native of this area. This report states that "it is not considered the applicant has provided sufficient information to demonstrate a

definite economic or social need to live at the proposed development site. This statement by the LA indicates that there are situations where the LA can relax the policies relating to rural development .

The Applicant Annette Richie (nee McDonagh) is indigenous to this area and indeed McDonagh's Lane , married to Alan Richie the joint applicant. The information submitted with this application shows her connection with the area and further up to date correspondence to their current address, McDonagh's Lane, is included herewith. The information submitted with the application clearly shows that she is caring for both of her parents, as fully certified by her parents GP they require full time caring , the applicant, Annette Richie has sworn an Affidavit in relation to the ongoing health issues of her parents and confirms that their conditions continue to decline . There could be no greater social need for her to reside on this site . The health and welfare of the applicant's parents are of paramount importance to the applicant, she is the only person who can provide the care her parents require. Annette Richie will be made redundant shortly by her employers , Ulster Bank, in some way this gives her some element of assurance as she embarks on the future enterprise of the strawberry farm. In an earlier application the LA suggested that she would be unable to operate the enterprise, work and care for her parents at the same time. The case now is that she will be able to concentrate on development of the farming enterprise and be within walking distance of her parents. The income derived from the farming enterprise will be her sole income.

The Applicants are committed to the caring of Annette's Parents, Alan gives full support to his wife. Both will be involved with the farming and as the revised business plan shows it is a viable proposition and they both have confidence in their ability to operate the enterprise successfully. The applicants situation, we suggest , represents a situation that justifies relaxing of the policies cited in the refusal ..

Residential and Visual Amenities

The statement regarding site analysis and character appraisal of the development appears to suggest that the Planning Assessment, lodged with the application, was not read. A detailed assessment was lodged which covered all aspects of the proposal. It is, however, suggested that additional information should be sought by a number sections in the LA, we would have welcomed an opportunity to address any request ..

Some issues regarding the siting and design of the dwelling are raised . The location of a window and door along with comments regarding the height above sea level. It was noted in other parts of the CEO that the level is below 350m above sea level which is the cut off point for development to be allowed. Excessive driveway and the possibility of the driveway being extended was raised . Additional information was also recommended in relation to these matters. These issues could have been dealt with by condition or Additional information request.

Points raised regarding roads does not appear to address the significant changes proposed relating to sightlines, entrance and recess area to facilitate passing. The proposed would create a safe entrance area that has sufficient sightlines for the achievable speed on the road in accordance with the 85 percentile as is the recommended codes of practice contained in the Manual for Roads and Bridges, NRA roads design manuals and all international Manuals for road design.

OVERCOMING PREVIOUS REASONS FOR REFUSAL

The only planning application that should be referred to in this section is refusal under SD21A/0263. This was the application that was submitted after the major changes in the applicants work and life situation.

“Reasons 1;2&3 broadly relate national policy regarding the location of rural development, and the criteria that must be met in order to permit development at sensitive locations such as the subject site”. This is stated in the CEO and again confirms that there are situations where, notwithstanding the National and Local policies, if the criteria is reached planning can be granted, we contend that the criteria is achieved by the applicants in this case.

We disagree entirely with the LAs contention that the applicant has not provided sufficient rationale for locating a dwelling at this location and not in an existing settlement.

There is a considerable amount of information outlining the applicants and her families situation.

1. The applicant's parent's conditions and subsequent needs are clearly and unambiguously stated in the support documentation lodged with the application.
2. The applicant's own situation regarding her imminent redundancy from her employment is clearly outlined.
3. The proposed business enterprise of the strawberry farm is outlined and supported within the revised business plan submitted herewith. This is a viable plan and the applicant has, in preparation, become a member of the Irish Farmers Association on the advice of the Strawberry Growers Association of Ireland.
4. The applicant is indigenous to not just the area but to McDonagh's Lane. All the necessary documentation to support this was lodged with the application, with some up dated herewith.
5. The applicant could not adequately carryout her carers' role if she resided any distance from her parents home. Carers must be within a reasonable distance of those being cared for. We have used the Department of Social Protection Carers Allowance Form, in order to have the applicants' parents assessed by their GP, as this sets out the recognised criteria used to determine the role of a carer. The criteria set out regarding the proximity of a carer to the person/persons being cared for is also determined by the Department and dictates that a carer must resident

with or close to the person being cared for. If the carer was to be located any distance from those being cared for it would have significant impact on the safety and health of those being cared for.

The CEO confirms that there is certain criteria that would dictate that the LA can set aside the relevant Policies referred to in this section. The applicant's demonstrable social and economic need to reside in this area on this site must be considered as in compliance with this criteria.

Reason no 4 relates to the design aspect of the development and this was addressed within the planning assessment lodged with the application if the LA still have issues they could have addressed them in the form of additional information as suggested in earlier sections. It appears that the planning assessment was not viewed in relation to this issue.

Reasons 5&6, Roads dept., regarding Ribbon development and Sightlines and Road Frontage

There is a considerable section of the Planning Assessment given over to these issues and roads in general. The road frontage and ribbon development are intricately linked. Ribbon development is considered as 5 or more entrances within 250 mtrs along the road. An attempt to control ribbon development the minimum road frontage requirement is set at 60mtrs, hence, 5 entrances would be 300mtrs well outside the 250 mtrs designation of ribbon development. However, the extent as to how a development can be considered infill development and the circumstances of the applicant does allow for flexibility on the ribbon development policy. We suggest that the applicants needs and circumstances and the infill nature of the site does allow the LA relax this policy, if the ribbon development policy is relaxed on this basis then the 60 mtrs, road frontage restriction can be deemed to be irrelevant.

Considerable changes have been made relating to the entrance layout and location where the entrance has been set back and moved to a more central position on the site. This results in greater sightlines being achieved and a passing area where up to 3 No vehicles can pull in. We suggest that the changes are significant enough to allow for the LA overcome these reasons for refusal.

The LA Loads Section should have given serious consideration to the alternative to the applicant residing on this site. While it would not be feasible, for reasons already set out earlier, for the applicant to reside any distance from her parent's home if she did source a dwelling in Blessington, Tallaght or Saggart this would require her to travel to and from her parents home in order to care for them. The result of this arrangement would result in significant additional movements to and from and along McDonagh's Lane. The resulting intensification of traffic movements would create a much greater danger in traffic movement terms. The applicant or any other carer/carers, and there could be more than one carer assigned to care for both parents in a scenario where caring is sourced outside a family, would have to make a number of regular visits every day, this could be as much as 6

to 10 visits per day, minimum, accounting for 12-20 round trips and traffic movements along the road, there would most certainly be trips resulting from emergency situations that occur, even at present, on a regular, almost daily basis. The entrance to the applicant's parents dwelling is not safe as it was constructed decades ago and does not have any degree of sightlines in either direction. Intensification of the use of this entrance would create a far greater risk than the proposal within this application.

Any contention regarding the creation of an undesirable precedence for similar development could only arise if any future applicant had the exact same circumstance as the current applicant. We suggest that the applicants in this application have unique circumstances that could not have been foreseen by them, the perfect storm that was the deterioration both of the applicants' Parent's health and the timing of the redundancy of the applicant .

Reason 7. There was a very detailed report submitted in relation to storm water disposal .it appears that the LA have not had sight of it. There is no reason why this reason for refusal should stand if that report had been addressed .

Public Realm

Additional information was recommend by the Public Realm section. As suggested earlier the LA could have sought additional information in relation to some of the matters raised by this section .

Landscaping was dealt with by a separate section in that it was proposed that significant landscaping plan would be produced in conjunction with the relevant section within the LA. We suggested that issues regarding the visual amenity and protection of views would be better served in conjunction with the landscaping as the screening and planting should be considered in that context A security bond was proposed in before and we alluded to that within our Planning Assessment lodged with the application.

The requirement for SUDs is somewhat confusing as there was a considerable storm water drainage assessment and recommendation which dealt with the disposal of storm water within the site. It appears this report is also missing from the file as there is no reference to it or it was not viewed by this section of the LA.

Concerns about the lack of information in relation to existing trees and hedgerows again suggests that the LA have not had view of A Tree Survey and Arboricultural Impact Assessment that was submitted with the Application.

The reservations expressed by this section could have been addressed by way of additional information and indeed if the reports lodged with the application had been viewed most of those concerns would have been allayed.

Roads

The issues raised by roads have already been dealt with earlier and are dealt with in a more detailed manner within the Planning Assessment lodged with the application and a specific Site Layout Map relating to the entrance details and sightlines . We again suggest that changes proposed should be considered to have addressed the concerns of the LA Roads section.

Services, Drainage and the Environment

A very comprehensive Storm Water disposal Report was submitted . Full test results , calculations, dimensions, photographs maps and charts and full recommendations were included within that report. Once again a substantial report appears not to have been viewed by the relevant section.

The inclusion of SUDs report/recommendation on this rural site is ,we suggest , is not required . BRE Digest 365 has been applied in the assessment/design of the drainage aspect of the site. Any issue regarding paving or restrictions regarding the extent of the driveway, water butts etc. could have been conditioned.

Environmental Health Officer(EHO)

A fully completed Site Suitability Report was submitted with the application along with a specific recommendation for a secondary treatment system and percolation area in accordance with the Site Suitability Report. This report does not appear to have been viewed by this section of the LA either.

COMMENTS ON REASONS FOR REFUSAL OF PLANNING UNDER FILE REF NO: SD22A/0117

Reason No 1.

- (a) The reason is reliant on the LA's contention that that applicants' have not provided sufficient evidence to justify the setting aside of the policies referred to within the reason. Reference to dated support documentation is not relevant regarding the applicants information in relation to her birth certificate , school attendance etc , we have submitted up to date evidence of their current address. The LA again suggest that the Business Plan was missing key information. We enclose a revised Business Plan, herewith, and reiterate that the proposed Strawberry Farm is a viable rural enterprise and the applicants are fully committed to it.
- (b) The applicants, we suggest, have shown sufficient justification for the setting aside of the relevant policy referred to. The caring for the applicants' parents must be considered as justification for this planning application to be granted coupled with the applicant's commitment to the rural based enterprise. We have outlined the reasons why the applicants needs cannot be catered for in any other location. The

applicants have a demonstrable social and economic need to reside in the area fully demonstrated within the support documentation lodged with this application.

Reason No 2.

The comments on Reason No 1 also apply to the contentions of the LA in this reason. We suggest that the applicants have shown sufficient justification, in relation to their demonstrable need to reside on this site, to justify the LA set aside the policies referred to in reason no 2 . We do not accept the contention that the strawberry farm is not viable and refer to the revised Business Plan in support of our opinion.

Reason No 3.

The comments on the previous reasons apply to this reason also.

Reason No 4.

(a) This reason relates predominantly to visual aspects of the region. The LA state that the development would have an effect on the landscape character of the area and that development should be *avoided if possible*. This does not exclude all development and it must be considered that this proposed development can not be avoided as it is needed to fulfil a demonstrable social and economic need of the applicants and their immediate family members who require full time caring. The proposed strawberry farm is a rural based agricultural enterprise. If the LA were to engage with the applicants in relation to mitigation measures that would minimise the effect of the receiving environment we suggest that the policy referred can be set aside.

(b) The reference, by the LA, to the proposed development being sub-urban like development is simply incredible . The design concept of the dwelling creates a visual context that is seen throughout the rural countryside of Ireland and in the rural areas of SDCC. The dwelling is designed to replicate the small farms that are indicative of traditional small rural land holdings . The front portion of the dwelling replicates the traditional cottage style building with symmetry to the front elevation. This section is joined to the Barrel style roof at the rear by a flat roof section. The barrel roof is similar to the traditional haybarn that is visible all over the Countryside and indeed within the mountain ranges of Dublin and Wicklow. To refer to this as being sub-urban is not correct. The dwelling has been positioned forward on the site and nestles into the embankment behind it.

(c) The majority of the excavation works carried on the site were carried out prior to the applicants acquiring the site from Annette Richie's uncle. We have already stated that the applicants are willing to discuss mitigation measures to alleviate any adverse effects on the landscape .

Reason No 5.

The issue of ribbon development has been dealt with in our Planning assessment lodged with the Planning Application and earlier within this appeal document. There is flexibility within the relevant policies relating to ribbon development. The extent to which this site represents infill development allows the LA to set aside this policy and subsequently the 60 mtr. min road frontage limit is no longer relevant as pointed out earlier.

Reason No 6.

The contention that this development would create a traffic hazard is not supported when the details of our submission are analysed. We have clearly shown that this development can be safely located on this site when the proposed entrance is located at the revised location. Adequate sightlines are available at the proposed entrance. As stated earlier any other arrangement for the caring of the applicants parents would create a significant intensification in traffic movement thereby creating a serious traffic hazard. The applicant, Annette Richie, has resided in this location all her life therefore to suggest this development would create need for further services is incorrect.

Reason No 7.

The LA's failure to adequately assess the documentation submitted with the application is difficult to comprehend. As already stated there was a very comprehensive Test, Design and Recommendations in relation to the disposal of storm water within the site. The report commissioned by the applicants was carried out in accordance with BRE 365 Digest- Soakaway Design. The report contains all necessary elements, Drawings, Photographs, Charts, Calculations and full recommendations.

Reason No 8.

We have addressed the issue regarding the 60m min road frontage earlier. Regarding the extent of the driveway we suggest that there is not excessive driveway proposed as the development requires adequate area for parking of cars and turning area for same. We have indicated that the drive way will be finished in pebble and therefore the area of the driveway will drain by percolation, naturally through the surface.

Reason No 9.

Sustainable Urban Drainage Systems are not applicable to this rural site. We have submitted a detailed report dealing with the drainage within the site. The issue of water butts is one that the applicants embrace, both being from the rural areas. Issues referred to within the CEO could have been conditioned.

SOUTH DUBLIN COUNTY COUNCIL DRAFT COUNTY DEVELOPMENT PLAN

Amendment to Section 6.9.1 Rural Housing 234



Reads as follows:

Section 6.9.1 Rural Housing 234.

H17 Objective;

To consider persons for a rural house in the RU Zone on their basis of their being an intrinsic part of rural community where such persons have grown up or spend substantial periods of their lives (12 years) living in the area or have move away and now wish to return to reside near to, or care for, immediate family members and are seeking to build on family landholding. Immediate family members are defined as mother, father, son, daughter, brother or sister.

The Council website says below

That Amendment 6.8 remain in the Development Plan to reflect Councillors desire to ensure that people who have grown up or spent substantial periods of their lives in a local rural area and who wish to return to reside near, or to care for, immediate family members, seeking to build on a family landholding, have the same opportunity to qualify for planning permission as their peers in neighbouring Counties.


← Back → Forward

The above amendment was passed by a vote in the South Dublin Council Chambers by a significant majority of the Elected Co. Councillors . The public representatives have supported this amendment in order to redress the situation that had prevailed in SDCC for decades where indigenous rural population were refused planning permission to build a home near to their family home to be close to or to care for their family members. This amendment has been spearheaded by some of the Co Councillors who were specifically aware of the current applicants plight and SDCC's constant refusals to grant her planning permission.

This amendment, we suggest should be considered by the Bord as being reason enough to overturn the decision of SDCC to refuse planning permission in this case. The applicants have shown a demonstrable social and economic need to reside on this site where Annette Richie(nee McDonagh) can provide the necessary care for both of her ill parents, while at the same time running a viable rural based enterprise , the strawberry farm.

Policies within development plans need to show flexibility and in general they do. Local Authorities should consider fairness, natural justice and indeed, while not contained within any development plan policy , compassion.

Annette and Alan Richie wish only to be in a position where they can give the necessary support to her parents, support that will, hopefully, be required for a considerable number of years giving the relatively young ages of her parents. With proper and safe caring there is no reason to believe this will not be the case and her parents can remain in their own home in the knowledge that their daughter is at hand, always. They also wish to utilise the farm land and set up a viable business in strawberry farming. There is no reason that the polices that the LA are invoking in order to refuse cannot be set aside in order to facilitate the granting of tis permission. The Bord should therefore overturn this refusal

Signed  12/07/22
Joseph J Warren Tech Eng.

DESIGN & CONSULTANCY SERVICES

PLANNING APPLICATION BY ANNETTE AND ALAN RITCHIE FOR

DEVELOPMENT AT Mc DONAGH'S LANE BRITTAS CO. DUBLIN

PLANNING ASSESSMENT BY: JOSEPH J. WARREN Tech. Eng.

1. The Application

This application is for the construction of a single storey dwelling with on site Waste Water Treatment System , and the construction of Polytunnels in relation to proposed strawberry farm enterprise on the site at Mc Donaghs' Lane , Brittas , Co Dublin .

2. The Site

- (i) The subject site is located on Mc Donaghs' Lane, Brittas , to the northwest of the Village of Brittas . The site has C 42 m. road frontage and extends to 0.52Ha. It is currently accessed off the lane through an existing entrance which was the original agricultural entrance to the lands. The site slopes upwards from the front of the site and plateaus out further back where it the rises again along the north-western section.
- (ii) The site was acquired from the applicants, Annette Richie's , uncle. Works had been carried out on the site prior to the applicants purchasing it.
- (iii) There is a temporary dwelling on site which is served by a septic tank. The development on site is the subject of ongoing legal proceedings regarding the alleged unauthorised nature of the development on site, the applicants are the defendants in this case .

3. Planning History

- (i) There have been a number of refusals for planning permission on the site and some of these were appealed to An Bord Pleanala (ABP) where the Local Authorities (LA's) decisions were upheld .
- (ii) The most recent application, Pl Reg Ref No SD20A/0157 was refused on 26th Aug. 2020 .There were 6 No reasons for refusal, all similar to the reasons for refusal within all the previous refusals .

4. The Applicants

- (i) Anette and Alan Ritchie are the applicants seeking planning permission for development of this site which includes the construction of a single storey dwelling and waste water treatment

- system , well, and poly tunnels in relation to a strawberry farming enterprise on the site . New entrance and all associated site works.
- (ii) Annette Richie (nee McDonagh) was born and reared in the bungalow directly opposite the subject site, she is married to Alan . Annette Richie is native to the area and considerable documentation is submitted in support of this within the rural housing assessments section, submitted within the application content .
 - (iii) The applicants genuine need to reside in this rural area is discussed in considerable detail within the rural housing assessment lodged with the application. The information contained there-in, regarding her immediate family circumstances and indeed her own changed circumstances, we suggest, clearly represents a demonstrable social and economic need to reside in this area and more specifically in this close a proximity to her immediate family members .
 - (iv) We suggest that the sensitive information submitted, which we trust will be filed separately in accordance with GDBR regulation, clearly represents a very significant material change to the applicants circumstances and as such the LA must consider that there is adequate reason for the LA to consider that their reasons for refusal in relation to the applicants rural housing non compliance can be overturned .
 - (v) We suggest that the business proposal for the strawberry farming enterprise has become a more urgent, relevant and viable entity than may have been considered the case within the LA's previous assessments , particularly considering the changed fortunes of the applicant regarding her employment status .
 - (vi) Annette Ritchie (nee Mc Donagh) is indigenous to area , however, we accept that this connection is not adequate in itself for her to be considered in compliance with the rural housing policy of the LA. The significant material changes to her immediate families and her own circumstances does, however, we suggest, changes this .
 - (vii) "*PROJECT IRELAND 2040 NPO 19*" , which we suggests seeks to curtail once off rural housing, does allow for the consideration of the granting of planning permission for one off dwellings where a demonstrable social or economic need is shown . Annett Ritchie has both a demonstrable social and economic need to reside in this area.
 - (viii) Alan Ritchie has been is support of his wife throughout in her changing circumstances and will be in support of her going forward , her fortunes or misfortunes, as the case may be, are his and he will be actively involved in all that is required to be dine in the future regarding Annette's family issues and the proposed business.

5. The Proposed Development

- (i) It is proposed to construct a single storey dwelling to the front of the subject site. The building design is in keeping with the traditional cottage style to the front with a flat roof linkage to a barrel roof/barn style building at the rear. We suggest that this design would be in keeping with typical buildings found around the countryside traditionally. The building has a maximum height of 5.5 m and relatively modest floor area at C 160 m². It is proposed to have wall finishes in smooth plaster with slate roof to the front/cottage section and raised joint cladding to the barrel roof, all roof material in black.
- (ii) The dwelling is to be served by an onsite waste water treatment system, a site suitability report and recommendation accompanies this application, this has been deemed satisfactory by the LA's Environment Section. A well is also proposed this will serve the dwelling and the strawberry farm.
- (iii) It is proposed to relocate the entrance south of its current location. Detailed analysis of the entrance and other transportation issues are discussed elsewhere in this assessment. Adequate onsite parking is to be provided on porous material with all drainage contained within the curtilages of the site boundaries. Soakaway design and recommendations are lodged with the application.
- (iv) It is proposed to provide three polytunnels in the area directly behind the dwelling on the lower level of the rear area of the site. The strawberry enterprise will operate out of the tunnels only and there will be no requirement for other structures. Equipment required for the operation of the farming such as implements, barrows, etc will be stored within the tunnels. Provision is shown for additional polytunnels as shown on the site plan.
- (v) We are aware of the extent of development within the previous failed applications. We have reduced the coverage, on the overall site, of structures and hard surfacing by 60%. The relocation of the dwelling to the front area of the site results in there being no need for a roadway to the rear of the site and eliminates the construction of all buildings from the rear of the site. Access to the tunnels will be via gravel pathways 900mm wide. As is normal practice within similar strawberry farms there will be no need for vehicular traffic to access the rear of the dwelling area, save as standard maintenance requirements for a dwelling. All materials both set up and ongoing operational will be transported by hand or trolleys designed for use in these types of operations.
- (vi) It is intended to plant a substantial native hedgerow directly behind the dwelling, this will be c.15m to the rear of the dwelling and will run north to south. The area to the front of this hedgerow will be exclusive to the residential aspect of the development.

- (vii) The strawberry farm will occupy 0.30 Ha . of the overall site, exclusively . Given the nature of the process and method of crop rotation employed within strawberry farming this area is more than sufficient to carry-out a viable and self-sufficient business. In fact the working of 0.25 ha is sufficient to produce the required amount of strawberries crop to provide sufficient net profit to create two and a half standard industrial wages . This element of the proposed development is outlined in the business plan accompanying the application.

6. Landscaping

- (I) There is considerable landscaping proposed. It is proposed to re-locate the existing entrance further south of the existing entrance, approximately to the centre of the front boundary. It is also propose to set back the front boundary, this will achieve the improvements required to the sightlines and also will provide a recess that will facilitate a passing point for meting vehicles .
- (II) It is proposed to plant a hedge row along the new front boundary line of native species as detailed on the landscape plan . This will comprise of semi mature planting . It is also proposed to plant a similar hedge row at the rear of the dwelling. There will be a standard timber farm gate installed for access to the rear of the site.
- (III) It is proposed to plant native species trees and hedges along the east and southeast boundaries. There will also be a considerable amount of ground cover planting in the form of Heathers, Ferns gorse/furze .
- (IV) We note that it was proposed within the last application, within the Public Realm Report, that the final detailed landscape plan ,protection measures for trees and hedgerows ,and a tree/hedgerow bond of €10,000 could be conditioned subject to agreement of the detailed landscaping plan, this would be acceptable to the applicants .

7. Visual Assessment report

- (i) The requirement for a visual assessment is suggested for the development proposed in the previous applications, however, we would suggest that while the extent of that development may have required such assessment the current development is of such a lesser scale, than that originally proposed, such a report may not be necessary.
- (ii) We would suggest that if the LA do still feel that such a report is required it would be more beneficial to have it carried out following agreement with the relevant section, referred in the previous section, regarding the full extent of the landscaping of the overall site. We suggest this would be more beneficial as any area that may be deemed to require specific treatment to lessen the effect of the development on the receiving environment could be considered. We would ask that the LA consider that this could be done byway of FI request and we could lease with the relevant section at that stage.
- (iii) We have had a scoping carried out regarding the effect of the development, this did not have the benefit of what may be the final landscaping proposal ,

however, the initial finding was that the effect on the surrounding receiving area would be low.

8. Traffic; Roads; Sightlines; Road Frontage; Ribbon Development .

- (i) A detailed traffic survey and subsequent assessment was carried out and lodged with the last two applications. The results of this Traffic Report are based on current road design criterium and the results have been drawn strictly in accordance with codes of practice within the regulations which are contained in the relevant national and international manuals that dictate all aspects of road design. The outcome of the report on the assessment of the SPEED section is unambiguous. We do not accept that any individual's opinion, regardless of who may support it, can over ride the internationally acceptable code of practice relating to that specific issue.
- (ii) The speed analysis is based on a 7day 24 hour survey carried out by between date ...date . The most relevant section of this report is the analysis of the speeds recorded over the specific period of the survey . The survey found that the maximum speed recorded regarding traffic travelling southbound was 56.6 Km/h . The 85th percentile of the recorded speeds, in this direction, was 37.6Km/h . The NRA manual for the design of roads and bridges is unambiguous in respect of the 85th percentile being the ONLY criterium to be used in assessing a relevant speed limit . It is not only the Irish standard that accepts the 85th percentile as the relevant code of practice but the British manual for the design of roads and bridges and the US roads design manual along with all other internationally recognised manuals, on this issue, fully accept that the 85th percentile is the safe, accepted and relevant code of practice.
- (iii) We strongly contend that to attempt to tamper with this specific code of practice or any other code of practice would create a very serious undesirable , and indeed unsafe , precedence . Engineering is not a matter of opinion but probably the single most absolute there is within any professional assessment. We should not disregard tried and tested practices for individual opinions. To rely on an opinion rather than a recognised tried and tested code of design practice is at the least unsafe and at worst dangerous,
- (iv) The status of Mc Donaghs Lane is an extremely important issue in relation to the assessment of the issues in this section and indeed this application. Analysis of the traffic survey, and local knowledge, shows this stretch of roadway from the junction with the Blessington Road , N81, up to the Tee junction with Slade valley road, L6035, to have predominantly residential traffic related to the laneway itself. We strongly suggest that this lane should be considered as a residential lane and not a Local Road we feel that that the current default speed limit of 80 Km/h should be reconsidered and reduced to 40Km/h which is the speed limit afforded to residential roads in urban areas
- (v) The 85th percentile shows a speed of 37.5 in the basis of calculation of the relevant speed limit for Mc Donaghs' lane at the point where the survey was

taken . A speed limit of 40 Km/H should be applied to this stretch of road based on this result .The NRA publication regarding speed limits for residential areas would dictate a 40 km/h speed limit which would represent a 33m sightline . This is entirely achievable.

- (vi) Should the LA Roads and Traffic section not agree the latter then the next speed limit to be considered would be the 50 Km/h which requires 60 m sightline this is also achievable in both directions . While we do not accept and will strongly contest the issue, if the 56.6 max speed shown to have been achieved , within the traffic survey results, were to be applied the result would be that a sightline of less than 85 mtrs would suffice , 85m sightline is achievable. This is a significant change from that achieved within the previous proposals and we suggest that there is sufficient change for the LA to reverse their decision on this issue . Adequate sightlines are achieved in accordance with the relevant regulations.
- (vii) We wish to address An Bord Pleanala Inspectors report referred within the last refusal , which was a part of the basis of the most resent reasons for refusal regarding roads and traffic issues. The inspector attempts to second guess the professional assessment within the roads assessment . Perhaps the inspector is not familiar with the **REASON DE'TRE** for the 85th percentile, as a code of practice . When a traffic survey is being analysed consideration must be given to various situations that will arise during the duration of that survey. It is accepted that when a traffic survey is being conducted there will be variations from the norm. The manuals that dictate roads design all acknowledge that there are exceptions to the rule . Therefore the relevant manuals , Irish, British , Usa, and all internationally recognised publications include an exempted category . There are a very limited exemptions, predominantly to do with emergencies and traffic related to them .Garda cars , Garda Motor Cycles , Cardiac Advanced Vehicles , Ambulances, Fire Services Advanced Vehicles and Fire Brigades . These vehicles are the exception to the rule for a very good reason. All of the above vehicles are driven by specially trained professional drivers . The vehicles are specially modified and specialised to allow the driver travel at speeds considerably faster speeds than the average driver . All such have sirens and emergency lighting. The accepted percentage allowed for these vehicles within the traffic count is 15% , the 85 percentile is therefore the accepted adjustment to allow for the exempted vehicle classes . The assumption of a 50km. speed limit requiring a 60 m sightline is a more than adequate distance .
- (viii) When considering the issue of whether a development represents ribbon development or not, we suggest that it should be assessed as to what extent the development represents an infill development. We think this is actually the correct classification for the proposed and as a result of this the ribbon development is not relevant, the proposed does not extend or add to or extend ribbon development . If the issue of ribbon development does not arise as we suggest then, then the LA can relax the 60m road frontage requirement as it is

intricately linked to the ribbon development. We also would point out that the dwelling is not aligned with the road boundary as a result of its design and layout of the site. The main entrance into the dwelling is right angle to the front boundary of the site this results in a totally different dynamic and form from the normal elongated dwelling running parallel to the road , we suggests that this would justify the road frontage of 42m.

- (ix) The extent of traffic to and from the site will not be any greater than that of a dwelling despite the strawberry enterprise .The applicant Annette Richie will be operating the farming business on a daily basis ,this eliminates the traffic that would be created by her working off site . The applicants' son no longer resides in the family home as a result there will be no traffic element relating to him. It is intended that the applicant, Alan Richie, will deliver the produce predominantly. Alan travels to City West on a daily basis and it is intended that he will make deliveries en-route . As he is in a position to work flexible hours he will be able to tailor his working rota to suit . Raw materials required for the agricultural business will be collected as required by either applicant ,however, following initial set up there is very little requirement for any materials to be brought to the farm.
- (x) The section of hedgerow to the north of the site, on the opposite side of the road, 20m to 40m from the centre point of the proposed entrance , where it was considered within the last planning assessment , that the sightlines were being impeded, very well maintained by the land owner. At present, and during this year to date, this section of hedge did not impede the sightlines in the northerly direction as they are indicated in the proposed sightline map Drg N21-3-05. On regular inspections this hedge has always min been c.1m. off the indicated sightlines . This is the recommended min. distance for a boundary ditch/hedgerow from a sight line and allows for up to 0.5 m growth during the growing season without impeding the sightline . The owner/occupier of the property, where this section of hedge is located carries out, what can be considered to be, a very good housekeeping regime on their property. While there is no reason to believe that the hedgerow in question will not continue to be maintained, in a manner which will not impede this sightline, the applicants have received written confirmation, in the form of a letter of permission that they, the applicants, can maintain this section of hedgerow going forward, if required . We do not concur with an opinion within the latest planning refusal assessment that the proposed cutting back of the hedgerow was not an acceptable proposal . It is normal for every roadside boundary to have annual or biannual hedge cutting and trimming as a matter of good housekeeping , it would be careless in the extreme for a land owner not to do so . It is also not unusual to have the regular cutting back of vegetation and hedges, in order to preserve the integrity of sightlines , conditioned within a planning application grant . The applicants are willing to have such a condition attached to a grant, should one ensue, not only to this particular stretch of hedgerow but roadside ditches and verges along both sightlines which requires ongoing maintenance,

- where they have control, the agreement from the owner of the relevant property, gives them control to maintain it . As a condition of planning the condition would be legally binding as not to maintain these hedges/ditches would represent non-compliance with a condition of the planning permission .
- (xi) We strongly suggest that considerable material change exists within the roads and traffic areas within this proposal from that proposed in all previous applications. We would ask the LA roads and traffic sections to give careful consideration to all the aspects dealt within this section of this assessment . We suggest that there is no public safety issue remaining as the sightline issue is adequately dealt with and that clarity of the proposal shows no problems in this regard . Traffic movement is not an issue as the extent of movements are more in keeping with average residential numbers of trips given the changes in the applicants over all circumstance. We would ask that the significant material changes to the applicants circumstances and the significant changes in the proposal relating to traffic and roads, herein, be recognised as reason for the relaxing of policies in order to allow the LA grant this permission and deem that the reasons for refusal relating to Traffic, Roads, Sightlines, Road Frontage and Ribbon Development have been adequately addressed in a manner which warrants the overturning of those reasons for refusal .

9. CONCLUSION

- (i) The series of applications that have preceded this application have served more to cause confusion rather than move the situation forward. We have endeavoured to put forward a clear assessment of the main issues that have arose in the previous refusals, based on the assessments within the LA's last refusal . While we have not gone through every policy that is cited within the assessment, referred to above, we believe the overall principles within all those policies have in some way been addressed.
- (ii) The applicants have found themselves in a very fast moving situation regarding every aspect of their lives . The significant changes that they have faced in the last 12 months alone have been devastating for them, this is dealt with in greater detail in the rural housing section. The dynamic of their lives has been totally altered and, ironically, this has created a situation that results in the proposals within the planning application being the only way forward for them and even more feasible than before.
- (iii) Their social need cannot be under estimated and is strongly supported within the rural assessment by professional certification. Their economic need arises from unexpected changes in the applicants' employment status. There is no doubt now that the applicants will have adequate

time to run the agricultural enterprise, the business plan clearly shows the viability of the proposal.

- (iv) Significant material changes to the roads and traffic issues have been achieved. There is clarification regarding the sightlines, entrance and passing recess is clearly indicated .We suggest that the faders of ghe roads and traffic sections have been delt with adequately.
- (v) We suggest that the LA can grant this permission, we note that there is reference, in a significant number areas, where the LA suggest sufficient change had not taken place to warrant the reversal of reasons for refusal or setting aside of policies to allow for a different outcome . We would ask the LA to consider that there is indeed sufficient changes within this proposal to allow for the granting of this permission.
- (vi) We would ask that the LA consider allowing us clarify any issues that they may have reservations about and allow us the opportunity to submit any further information that the LA may feel would assist them in coming to a favourable decision in the matter of this application.

Signed _____

Joseph J Warren Tech. Eng.

Dated : 17th September 2021