



Submission to :-

Fingal County Council - Draft Development Plan 2023-2029.



On behalf of :-

Name :- Niall Mooney

Address:- [REDACTED] Co. Dublin

Date :- 11th May 2022.

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1 Introduction

This submission is made to ask the Planning Department to correct what is an anomaly in the existing Fingal Development Plan 2017-2023 that has allowed a situation to occur whereby Niall Mooney was refused Planning Permission for a Dwellinghouse in a Rural Area despite meeting the criteria as a suitable applicant. The reason given is because Niall's parents' house was granted planning permission after 19th October 1999. The logic of this reason does not stand up to any scrutiny as this logic means that all children living in all houses which were permitted to their parents since 19th October 1999 will also be refused planning permission.

Logically, 15 years after 1999 it would be possible for a family member to have established close family ties of their own, and so, in the interests of fairness and equality, this rule should have been removed in 2014. At the very least it should be moved by 15 years every 15 years to allow successive generations to follow on previous generations and keep rural areas repopulated and alive and not be blocked forevermore by a date set in 1999. This approach will effectively lead to depopulation of existing rural areas when the people granted houses up to 1999 have passed away as no sons or daughters will have received planning permission to stay in the rural area.

We will briefly outline Niall Mooney's Planning History and then offer up two possible solutions to correct this anomaly in the existing Development Plan (2017-2023) which we hope the Planning Department can take cognisance of and make one or the other amendments when finalising the 2023-2029 Development Plan

2 Background - Relevant Planning Decisions (most recent first)

Reg. Ref. No. – F20A/0186. Decision Date – 15th July 2020.

Planning Permission was refused for new Dwellinghouse with wastewater treatment system and percolation area.

Applicant:- Niall Mooney.

The reason for refusal included the following text:-

The eligibility criteria set out under Objective RF39 (Table RF03) stipulates that an applicant may be considered under close family ties criteria for a new rural dwelling where permission has not already been granted to a family member by reason of close family ties since 19th October 1999. As the applicant's parents were permitted a dwelling within the rural area of Fingal under Reg. Ref. F99A/0512 on the 24th November 1999 under close family ties criteria, the applicant is not eligible to be considered for a dwelling in the rural area of Fingal in accordance with Objective RF39 of the Fingal Development Plan 2017 – 2023. The applicant has therefore not demonstrated his eligibility to be considered for a dwelling in the rural area of Fingal on the basis of 'close family ties'. The proposed development would contravene materially the rural settlement strategy of the Fingal Development Plan 2017-2023 including Objective RF39, would be contrary to the Ministerial Guidelines and to the over-arching national policy in the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

This decision was then appealed to An Bord Pleanála (ABP-307894-20) who upheld the Decision to refuse permission.

Reg. Ref. No. – F18A/0726. Decision Date – 11th February 2019.

Planning Permission was refused for new dormer-style dwellinghouse accessed via existing entrance with wastewater treatment system and percolation area.

Applicant:- Niall Mooney.

The reason for refusal included the following text:-

1. The subject site is within the 'GB' zoning objective under the Fingal Development Plan, 2017 - 2023 the objective of which is to "protect and provide for a Greenbelt." Paragraph (i) of Table RF03 of the Fingal Development Plan 2017 - 2023 stipulates that consideration for planning permission for new rural housing may be given to one member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant's parents were granted planning permission for a rural dwelling on the family landholding on 24th November 1999 on the basis of close family ties (Reg. Ref. F99A/0512 refers). The applicant is therefore the second family member to apply for a rural dwelling on the basis of close family ties which is contrary to paragraph (i) of Table RF03 of the Fingal Development Plan 2017 - 2023.

Reg. Ref. No. – F18A/0274. Decision Date – 16th July 2018.

Planning Permission was refused for new dormer-style dwellinghouse accessed via existing entrance with wastewater treatment system and percolation area.

Applicant:- Niall Mooney.

It was acknowledged and recorded in the Managers Report for the F18A/0274 application that Nialls residency requirement has indeed been established., however, despite this, the following reason was given for refusal :-

1. The subject site is within the 'GB' zoning objective under the Fingal Development Plan, 2017 - 2023 the objective of which is to 'protect and provide for a Greenbelt.' Paragraph (i) of Table RF03 of the Fingal Development Plan 2017 – 2023 stipulates that consideration for planning permission for new rural housing may be given to one member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant's parents were granted planning permission for a rural dwelling on the family landholding on 24th November 1999 on the basis of close family ties (Reg. Ref. F99A/0512 refers). The applicant is therefore the second family member to apply for a rural dwelling on the basis of close family ties which is contrary to paragraph (i) of Table RF03 of the Fingal Development Plan 2017 – 2023.

Reg. Ref. No. – F08A/1096. Date of Decision – 30th October 2008.

Planning Permission was refused for a dormer dwelling and wastewater treatment system.

Applicant:- Niall Mooney.

The reason for refusal included the following text:-

1. The proposed development is located on lands zoned objective 'GB', 'To protect and provide for a green belt to demarcate the urban and rural area and provide for agriculture and amenity in a manner that protects the physical and visual amenity of the area' in the County Development Plan, 2005-2011. Residential development is only permitted on suitable sites where the applicant has established an essential need to live in the rural area by reason of being engaged in the running of the family farm or for reasons of close family ties, subject to specific criteria as outlined in Section 5.3 of the County Development Plan, 2005-2011. The applicant has sought permission for a house for reasons of close family ties. On the basis of the information submitted, i.e. a member of the farming family, J. Mooney, has previously obtained permission on the landholding, for reasons of close family ties since the adoption of the Fingal Development Plan, 1999, the development would thus contravene materially the development objective for the area and would be contrary to the proper planning and sustainable development of the area.

Therefore, Niall Mooney has repeatedly been refused Planning Permission because of the fact that his parents received Planning Permission for their family home and that the date of the parents planning permission was on 24th November 1999 which is after a 'guillotine date' that is included in the Development Plan i.e 19th October 1999. which we will explore further in the next section.

3 Planning Permission for Parents House – Key Dates.

A couple of important points to make about this approach to planning are as follows :-

- i) Fingal County Council made a decision to Grant Planning Permission to Nialls mother and father on 18TH October 1999. Which was one day prior to the cut-off date being applied i.e. 19th October 1999. There was no appeal lodged and subsequently the 'Final Grant' was issued on 24th November 1999, 37 days later and ,incidentally, the final grant issue date can vary a lot from application to application , from the minimum 4 weeks to sometimes months and even years before being dated and issued. It should be remembered that there is a statutory maximum period of 8 weeks for a Decision on an application to be made and this is the fairest date to be applied, there is no statutory maximum period for the final grant to be issued, only a minimum period i.e 4 weeks. Therefore, if there is to be a cut-off date / guillotine date applied, it is unfair to take the date of the final grant as the defining date to make or break the cut-off, the date that should be applied is the 'closed-end' date with the statutory maximum period.
- ii) The most important date is the 18th October because this was the date that Fingal County Council decided to grant planning permission and , crucially, no further assessment was made by Fingal County Council between 18th October and 24th November, this was simply a waiting period i.e the appeal period. Furthermore, there were no 3rd party submissions on this application so the only persons that could have appealed were the applicants themselves.

In essence, Fingal County Council have not decided to grant planning permission to a member of Nialls family since 18th October 1999 which should have negated the reason for refusal.

- iii) John & Eileen Mooney are Nialls parents and the house granted under Reg. ref. No.-F99A/0512 was the family home. Since 1999, none of John and Eileens children have received planning permission and Niall is the next generation. Surely it is not proper planning to block all of the next generation of a rural family from remaining in their local area because the parents received planning permission. This approach means none of John & Eileens children and in time grandchildren will be allowed live in this area and this does not seem in any way to be fair and is discriminating against the Mooney family and in particular Niall Mooney as Niall has friends around his age that have received planning permission to live beside their parents in a rural area of Fingal and the only difference between Niall and his friends who have received planning permission to build themselves a home beside their parents is the date on which the respective parents house received its planning permission.

We would contend that the rule regarding 'one family member' being allowed permission for a house on the basis of close family ties (Table RF03-FDP 2017-2023) is to allow **only one** son or daughter to build a house adjacent to the family home. It was not intended to preclude **any** son or daughter because of their close family tie to their parents. Since construction of John & Eileens family home in 2000, no son or daughter has been granted planning permission and if the same rule / wording remains in the next Development Plan, no son or daughter of John & Eileen will ever receive Planning Permission to live beside their parents on the basis of close family ties which will preclude successive generations from living in an area where they grew up and have formed social links.

4 Requested Amendment to Draft Development Plan 2023-2029

We have looked at the Draft Development Plan 2023-2029 and the same rules regarding new housing for the rural community in respect of the 'guillotine date' of 19th October 1999 are proposed to be included.

Objective RF29

Provide that the maximum number of dwellings permitted under any of the rural zonings will be less any additional house which has been granted planning permission to a family member since 19th October 1999.

Table RF03: Criteria for Eligible Applicants from the Rural Community for Planning Permission for New Rural Housing

- i. One member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant for planning permission for a house on the basis of close family ties shall be required to provide documentary evidence that:
 - S/he is a close member of the family of the owners of the family home.
 - S/he has lived in the family home identified on the application or within the locality of the family home for at least fifteen years.

Current FDP 2017-2023 - Rural Cluster Settlement Strategy

Date of 19th October 1999 included in Objective RF29 & Table RF-03

Objective SPQH070

Provide that the maximum number of dwellings permitted under any of the rural zonings will be less any additional house which has been granted planning permission to a family member since 19th October 1999.

Table 3.5: Criteria for Eligible Applicants from the Rural Community for Planning permission for New Rural Housing:

- i. One member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant for planning permission for a house on the basis of close family ties shall be required to provide documentary evidence that:
 - S/he is a close member of the family of the owners of the family home.
 - S/he has lived in the family home identified on the application or within the locality of the family home for at least fifteen years.

Draft FDP 2023-2029 - Rural Cluster Settlement Strategy

Date of 19th October 1999 included in Objective SPQH070 & Table 3.5

The same date (19th October 1999) being carried over will in effect mean that Niall Mooney will be refused permission again if he was to apply under the new Development Plan 2023-2029 which for the reasons stated herein is a very unfair and unreasonable scenario and therefore we now put forward a number of options that would address this anomaly and allow Niall Mooney to rightfully qualify for a house in a Rural area, and these are as follows :-

Option 1 – Bring the the relevant date forward by five years to 19th October 2004 as a Development Plan and this allows a ‘tracking date’ which is 19years behind the date of the Development Plan.

Option 2 - Amend the criteria for eligible applicants on the basis of close family ties to state that

‘ the family home / parents house to be excluded from counting as a dwellinghouse for the purposes of ‘close family ties’.

5 Summary

For natural progression and successive generations to stay in eth area where they were born and raised , the 19th October 1999 date should be moved in tandem with the dates of each Development Plan i.e moved five years every five years. To keep it as a rigid ‘guillotine date’ is precluding genuine applicants from qualifying for a dwellinghouse in a rural area. The other option put forward , i.e. not to include parents as ‘close family ties’ also makes logical sense in that it will still only permit one son or daughter.

This concludes our submission on the Fingal County Council Draft Development Plan 2023-2029 and it is hoped the Planning Department will recognize the merit of same.

Yours Sincerely,



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