



An
Bord
Pleanála

Inspector's Report ABP-305270-19

Development	House
Location	Boolies, Balrath, Kells, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	KA190224
Applicant(s)	Patrick and Sharon Jarratt.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party.
Appellant(s)	Tom Duffy.
Observer(s)	None
Date of Site Inspection	26 th November 2019.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.2612ha appeal site lies c.2km to the south west of Kells town, and c. 100m north of the N3, in the townland of Boolies, Balrath, Co. Meath. The site is T-shaped and comprises part of an agricultural field and the adjoining roadside boundary. It is bounded to the north by a hedgerow and hedgerow trees alongside the road and to the west by a hedgerow.
- 1.2. To the south of the agricultural field is a two-storey detached property with associated outbuildings. It is accessed via a laneway off the public road to the south east of the site. A residential property and farm lie c.100m to the north of the site (the appellant's property). Access to the appeal site is currently from the public road, opposite the entrance to the appellant's farm.

2.0 Proposed Development

- 2.1. The proposed development, as modified by way of significant further information submitted in June 2019 and re-advertised in July 2019, comprises the construction of a part single storey, part two storey detached property and separate domestic garage. In order to achieve sightlines a length of the existing roadside hedge/hedgerow trees will be removed, and a new hedgerow planted behind the sightline and along site boundaries. Additional tree planting is proposed within the site (see Landscape Proposals), in particular in the north western corner of the site (e.g. Austrian/black pine, native wild cherry and hawthorn).
- 2.2. Water supply is from a proposed well to the north west of the site. Foul water will be disposed of via a proprietary effluent treatment system (with constructed sand polishing filter) to the south of the site and dwelling. Surface water will be disposed of via two soakaways, to the north and south of the proposed dwelling and a metal 'aco' channel will be installed across the entrance to collect surface water and direct it to the northern soakaway. The existing entrance to the agricultural field (permitted under PA ref. KA900150) will be closed up and a new entrance to the south east of the appeal site will be opened up as proposed under PA ref. KA190225.
- 2.3. Accompanying the planning application are:
 - Local need form.

- Landscaping scheme.
- Supporting material for Exceptional Health Circumstances.
- Site characterisation form and details of proposed wastewater treatment system.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 2nd August 2019 the planning authority decided to grant permission for the development subject to conditions, including:

- No. 2 – Entrance to be laid out in accordance with the plans submitted. Roadside piers to be at least 3m from the edge of the public road and the gate at least 7m from the edge of the road.
- No. 3 – Within 3 months of the opening of the new entrance, the existing agricultural entrance granted under PA ref. KA900150 to be permanently closed up.
- No. 6 – Requires implementation of the landscaping scheme submitted.
- No. 7 and 8 – Govern construction and maintenance of the effluent treatment system.
- Nos. 13 – 15 – Require payment of a development charge.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 11th April 2019 – The report raises concerns regarding local housing need (exceptional health circumstances), provision of sightlines within the red line boundary, landscaping, surface water management and the matters raised by third parties. It recommends further information on these matters.
- 31st July 2019 – This report refers to the further information submitted and considers that the matters raised have been addressed. It recommends granting permission for the development subject to conditions.

3.2.2. Other Technical Reports

- Transportation (3rd April 2019) – Recommends that the applicant submit a revised site layout plan showing a red line to include unobstructed sightlines and recessed entrance gate.
- Transportation (16th July 2019) – No objections subject to conditions.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. There are two observations on file made by the appellant, Thomas Duffy. He owns the property and farm to the north of the appeal site and makes the following observations on the development:

- Development is proposed directly across from the entrance to the observers busy farm (with access by daily milk lorries, meal lorries, 4 tractors working in the area in the summer silage period and also during slurry spreading). The new development and its entrance will cause serious obstruction of the roadway and a risk of traffic hazard.
- The planning application overlaps with a (then) live planning application, reference no. KA190224 raising questions regarding validation of these.
- An alternative location should be considered for the development. A site to the south of the landowners dwelling, with access from the same laneway, would be a better site and removed from a busy farm with its noise, smells and light pollution. Alternatively, the landowners dwelling could be adapted to meet the applicant's needs.
- The design, scale and form and build into the landscape does not meet the design criteria set out in the Rural Housing Design Guide of the County Development Plan. No sections across the site to indicate how far the dwelling will be elevated above the road level and the observers property.
- Loss of hedgerow and mature trees. Visual impact on beauty of the area.
- Consent from adjoining landowner to provide sightlines.

- No supporting information for exceptional health circumstances. Applicants are not member of the intrinsic rural community.
- Treatment of wastewater and stormwater has not been clearly demonstrated. No stormwater drainage shown. Risk of flooding of the public road. Risk of contamination of spring well in field.

4.0 Planning History

- PA ref. KA190225 – Permission granted for a new agricultural entrance into the field in which the proposed development is proposed, moving the field entrance to the east. Condition no. 2 of the permission requires removal of the roadside boundary hedge to provide unobstructed sightlines.
- PA ref. KA900150 – Permission granted for erection of sunroom to side of two storey dwelling (to the south of the appeal site) and provision of new agricultural entrance to lands.

5.0 Policy Context

5.1. National Planning Framework

- 5.1.1. National policy objective 19 of the NPF, in respect of rural areas outside of those areas under urban influence, seeks to ‘*facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory and plans, having regard to the viability of smaller towns and rural settlements*’.

5.2. Meath County Development Plan 2013 - 2019

- 5.2.1. The current County Development Plan recognises the long tradition of people living in rural areas and the Plan seeks to accommodate rural generated housing needs, subject to local housing need criteria and development management standards (policies RUR DEV SP 1 and 2 and RD POL 1).
- 5.2.2. The appeal site is situated in rural Area 3 which is deemed to be under Low Development Pressure (section 10.3. Rural Area Types). In such areas, the Plan states that the key challenge is to arrest population and economic decline.

Consequently, policy RD POL 6 of the Plan seeks to '*accommodate demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas*'. Under Policy RD POL 7 it is stated that in Low Development Pressure areas, no occupancy conditions shall apply.

5.2.3. It is stated that applications for rural dwellings will be assessed on the basis of the policies set down for each Area Type and the following criteria:

- In section 10.4, persons who are an intrinsic member of the rural community and those with exceptional health circumstances which require a person to live in a particular environment or close to family support.
- In section 10.5.1, the following development assessment criteria:
 - Rural housing needs (as defined above),
 - Local circumstances such as the degree to which the surrounding area has been developed and is trending towards becoming overdeveloped;
 - The degree of existing development on the original landholding from which the site is taken including the extent to which previously permitted rural housing has been retained in family occupancy;
 - The suitability of the site in terms of access, wastewater disposal and house location relative to other policies and objectives of this plan;
 - The degree to which the proposal might be considered infill development

5.3. **Natural Heritage Designations**

5.3.1. The nearest sites of nature conservation interest lie c.2.5km to the north of the site and comprise the River Boyne and River Blackwater SAC and SPA (site codes 002299 and 004232 respectively).

5.4. **EIA Screening**

5.4.1. The proposed development is of a type that constitutes an EIA project (involving construction works and demolition). However, it is modest in scale, is proposed on agricultural land and will not give rise to any significant environmental effects by way

of use of natural resources or emissions. Consequently, there is, therefore, no real likelihood of significant effects on the environment to warrant environmental impact assessment.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant repeats matter raised in observations on the planning application and the following additional matters:

- Residential care element of the property has the potential to be impacted by the lights and noise of HGVs, tractors and agricultural vehicles accessing the appellant's farm (including in the early morning/late at night). Loss of trees/hedge will exacerbate the issue. Layout and position of dwelling could be amended to avoid potential conflicts.
- The use of the existing access would be in accordance with emerging rural planning policy promoting housing clusters (refers to Design and Best Practice for Cluster Housing Schemes in Rural Villages, Tipperary County Council, 2019).
- Bone fides of case put forward by the applicant/Lack of transparency in rural housing need.
- The property is c.2km from Kells and it is unusual that the rural area is considered a low-pressure area.
- There is no occupancy condition attached to the permission. If the applicant is being granted planning permission under special circumstances that override normal local need policies then an occupancy condition should be attached to the permission.

6.2. Applicant's Response

6.2.1. The applicant responds to the appeal as follows:

- The proposed sensory room is located to the rear of the dwelling, not the front. Vehicles associated with a dairy herd would be relatively light. The

appellant's house is c.120m from the north western corner of the appeal site and his farm buildings a further 20m away. Noise from the farmyard would therefore be minimal and non-invasive within the house (which will also be completed with concrete floors, triple glazing and high levels of acoustic insulation). The rear garden would be separated from the public road by the bulk of the house. Rural background noise levels are significantly lower than urban noise. Substantial landscaping is also proposed, which will also provide a barrier for light and noise.

- The proposed development is for a family home for the reasons put forward in the planning application. The applicant is aware that they are moving into a rural area.
- It is standard practice for local authorities to ensure that private and confidential information with regard to local need is kept out of the public realm. This matter is beyond the scope of this appeal and irrelevant to the determination of the appeal and without substance.
- The alternative access and location are not relevant to the assessment. No proposal has been made for these arrangements. Ground levels in the locations mentioned by the appellant are less suitable.
- The County Development Plan designates the area as a Low Development Pressure area and relevant policies and objectives of the Plan apply.
- The applicant is not opposed to an occupancy condition in any grant of permission. However, the absence of such a condition is consistent with policy RD POL 7 of the County Development Plan.
- Requests that the Board dismiss the appeal under section 138(1)(a) of the Planning and Development Act 2000 (as amended), on the grounds that it is without basis or foundation.

6.3. Planning Authority Response

6.3.1. The planning authority make the following response to the appeal:

- All of the matters raised were considered in the course of the assessment of the planning application.

- It is not considered that the development will impact on the privacy of the dwelling or farmyard on the opposite side of the roadway. 90m sightlines have been proposed at the entrance to the site and Roads Section have raised no objections to this.
- A site-specific housing need has been demonstrated at this location. This information is private and confidential and not available to the general public.
- A landscaping plan has been submitted which will help integrate the development into the landscape at this location and the dwelling complies with the Meath Rural Design Guide. The site is defined as a rural area of low development pressure and in accordance with Policy RD POL 7 it is policy not to attach an occupancy condition.

6.4. **Observations/Further Responses**

- None.

7.0 **Assessment**

7.1. Having regard to the submission on file and my inspection of the appeal site, the key matters for this appeal relate to:

- Principle of the appeal.
- Rural housing need.
- Impact on amenity.
- Traffic hazard.

7.2. In observations, the appellant also raises concerns regarding the management of surface water, risk of flooding of the local road, pollution of wells and the disposal of effluent. I note that the applicant proposes to manage surface waters on site and direct flows to discharge to ground via on site soakaways. Foul water is to be disposed of via a proprietary effluent treatment system with constructed sand polishing filter (given the poor drainage of the site). The arrangements have been deemed to be acceptable by the planning authority and will prevent flows onto the public road and direct flows away from the well to the east of the site. Further, the results of the site assessment are within the parameters for discharge of waters to

ground as set out by the EPA (Code of Practice: Wastewater Treatment Systems for Single Houses). I note that there is one letter on file from the adjoining landowner in respect of sightlines.

7.3. Principle of appeal

- 7.3.1. The appellant's request the Board to dismiss the appeal under section 138(1)(a) of the Act. However, it is evident from the submissions made the legitimate planning matters have been raised and I do not consider that section 138(1)(a) applies.

7.4. Rural Housing Need

- 7.4.1. The applicants state that they have a rural housing need based on exceptional health circumstances i.e. that a family member has autism and will benefit from living in a rural environment. There is substantial information on file to support the application in this regard, from a range of health care providers and information on the spatial requirements of people with autism, which include for some the need for some outdoor space and/or extra indoor space and quiet space. Having regard to the foregoing, I would accept that the applicants have demonstrated exceptional health circumstances which would benefit from residency in a rural environment. I also note the applicants relationship with the landowner and consider that a reasonable case has been made for the particular site.
- 7.4.2. The appeal site lies in a rural area, defined as under Low Development Pressure, lying c. 2km to the south west of Kells town and immediately north of the N3. In such areas the County Development Plan seeks to accommodate demand for permanent residential development, subject to the applicant demonstrating a rural housing need and good practice in matters of design etc., and it is stated that no occupancy condition will apply.
- 7.4.3. For rural areas outside of those under urban influence, the National Planning Framework, which was published subsequent to the County Development Plan, also seeks to facilitate single houses in the countryside but includes the proviso '*having regard to the viability of smaller towns and settlements*'.
- 7.4.4. In this instance the appeal site lies in close proximity to Kells and has ready access to the N3. I would recommend, therefore, that if the board are minded to grant

permission, and in order to satisfy the more recent policy context for rural housing set out in the National Planning Framework, the development be subject to an occupancy condition, in the interest of preventing speculative development and use of the dwelling for an urban generated housing, in the rural area around Kells town.

7.5. Impact on Amenity

- 7.5.1. In order to achieve the required sightlines, the proposed development requires the removal of part of the hedgerow, and associated trees alongside the public road. I would accept that in the short term these will give rise to loss of hedgerow habitat and have an adverse effect on the visual amenity of the area. However, with the implementation of the landscaping plan and on maturity, the visual effect of the development and its impact on the roadside boundary will be alleviated.
- 7.5.2. The appellant raises concerns that farming activity may give rise to noise and environmental effects which may impact on the exceptional health requirements of the applicant and consequently, indirectly, on the farming activity. The applicant states that they are aware of the rural environment in which the dwelling is proposed. I also note that the farm yard is c.130m to the north of the appeal site and the proposed sensory room is situated to the rear of the property and will be separated from the entrance to the farm by the structure of the building and landscaping. I do not consider therefore that farming activities are likely to give rise to significant environmental effects on the proposed dwelling, to the detriment of the property itself or, indirectly, farming activities taking place. For the same reasons, I do not consider that the relocation of the dwelling within the landholding is required.
- 7.5.3. The appeal site is c. 120m to the south east of the appellant's residential property and farm and, at this distance the proposed dwelling will have no adverse effect on the residential amenity of the appellant's property. I also note that the proposed dwelling is contemporary in design and a mix of one and two storeys and relates, in this respect, to the form of the existing built environment which is characterised by the two-storey dwelling to the south of the site and the appellant's two storey residence. I would not consider the development, therefore, to be inconsistent in this respect, or with other matters of design detail set out in the Meath Rural Design Guide.

7.6. Traffic Hazard

- 7.6.1. The entrance to the proposed dwelling is proposed c.250m to the south east of the existing farm entrance. Further, the roadside boundary will be set back in order to facilitate the provision of sightlines. Having regard to these arrangements, I do not consider that development and/or its entrance will cause serious obstruction of the roadway and a risk of traffic hazard with farm traffic.
- 7.6.2. The appellant proposes use of the existing laneway to the landholding in order to minimise impact on the established hedgerow/trees, to remove the entrance to the site from the vicinity of the farm yard entrance and to provide a more clustered approach to development.
- 7.6.3. In principle, I would accept that the use of the existing laneway and relocation of the dwelling would prevent impacts on the existing hedgerow and potentially provide a more clustered approach to development. However, any such alterations may be substantial (e.g. relocating to more elevated land to the south of the site and nearby property), require significant further information or a new planning application. The Board may decide to pursue this option. However, I am of the opinion that the development does not give rise to such significant effects to warrant this.

8.0 Recommendation

- 8.1. I recommend that permission for the proposed development be granted subject to condition.

9.0 Reasons and Considerations

Having regard to the exceptional health circumstances of the applicant, the detailed design of the proposed development and the location of the entrance to the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, or give rise to traffic hazard and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 28th day of June 2019 and the 10th July 2019 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, the existing agricultural entrance granted under PA ref. KA/900150 shall be permanently closed up and the site accessed from the entrance shown in the Revised Site Layout Plan dated February 2019. Written confirmation and photographic evidence of this and provision of sightlines (as per Revised Site Layout Plan, February 2019) shall be submitted to the planning authority.</p> <p>Reason: In the interest of traffic safety.</p>
3.	<p>Surface water from the site shall be directed into soakpits and shall not be permitted to drain onto the adjoining public road or into the wastewater treatment system.</p> <p>Reason: In the interest of traffic safety and public health.</p>
4.	<p>The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof. The external walls shall be finished in neutral colours such as grey or off-white.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>(a) Existing hedgerows, trees and shrubs on site shall be retained, except where it is necessary to accommodate the entrance to the site and sightlines.</p>

	<p>(b) The site shall be landscaped, in accordance with details set out in the Landscape Proposals/Boundary Details Plan dated May 2019.</p> <p>(c) Planting shall commence no later than the first planting season following commencement of development on site. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
6.	<p>During construction adequate off carriageway parking facilities shall be provided for all traffic associated with the development, including delivery and service vehicles/trucks. There shall be no parking along the public road.</p> <p>Reason: In the interest of traffic safety.</p>
7.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 1st March 2019 (Site Characterisation Form), and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority</p>

	<p>within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Deirdre MacGabhann

Planning Inspector

18th December 2019