



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307736-20

---

<b>Development</b>	Construction of 4 no. dwellings, (1 no. 1.5 storey 3 bedroom dwelling & 3 no. detached, 4 bedroom dwellings).
<b>Location</b>	Wotton, The Ward, Ashbourne, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	AA200459
<b>Applicant(s)</b>	GT Horticultural Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	GT Horticultural Ltd.
<b>Observer(s)</b>	Dublin Airport Authority.
<b>Date of Site Inspection</b>	5 <sup>th</sup> October 2020.
<b>Inspector</b>	Elaine Sullivan

## 1.0 Site Location and Description

1.1. The subject site is located in a rural area, known as the Ward, in the south east of Meath. It has a stated area of 0.022ha and is situated on a local road to the south of Ashbourne and to the west of the R135 and the M2.

A development of 10 large detached houses has been constructed on the site. This development was granted permission in 2006 under Ref. DA/504406. The development is laid out with 8 of the houses in a central spine, positioned back to back and facing onto the internal access road to the front and rear. The two remaining houses are located to the south of the entrance road, with the first one set back by approximately 28m from the local road. Both houses back onto the adjoining property to the south which comprises a detached two storey house.

The original permission for the site showed the public open space provision to the rear of the site and along the eastern boundary. This area is also the location of the on-site waste treatment system and percolation area. There are also soakways in either corner of this space and also within the strip of green space to the front of the site. On the occasion of the site visit this area had been planted with grass and was mostly maintained with some overgrown areas.

## 2.0 Proposed Development

2.1. Planning permission is sought for the following development;

- The construction of 4 detached dwellings; (1 x single storey, 3 bed house of 114m<sup>2</sup> and 3 x two storey, 4 bed houses of 210-250m<sup>2</sup> all with detached garages circa 35 – 50m<sup>2</sup>)
- Upgrades to service roads, connections to existing drainage works including sewage treatment system, landscaping and ancillary works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was refused by the Planning Authority for the following reasons;

The application site is located in a rural area outside any designated settlement and in a Rural Area under a Strong Urban Influence as defined in the Sustainable Rural Housing Guidelines for Planning Authorities and the Meath County Development Plan 2013-2019 where development which is not rurally-generated should be more properly located in settlement centres. It is the policy of the County Development Plan to restrict housing in this area to those who are intrinsically part of the rural community or who have an occupation predominantly based in the rural community. It is considered, based on the lack of information submitted, that the applicant has not established a site specific rural generated housing need for the additional dwellings at this location. The proposed development would be contrary to the policy of the Sustainable Rural Housing Guidelines for Planning Authorities and the Meath County Development Plan 2013-2019 and would, therefore be contrary to the proper planning and sustainable development of the area and would establish a very undesirable future precedent.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The recommendation to refuse permission in the Planning Officer's report, (June 2020), reflects the decision of the Planning Authority. The report concluded the following;

- The application site is not zoned for residential development and is not located within a development boundary of a designated town or village.
- The proposed development is located within an area identified as a Rural Area of Strong Urban Influence. Planning policy for housing in rural areas, as set out in the County Development Plan, requires the demonstration of a specific housing need. Section 10.4 of the Development Plan sets out the circumstances which would demonstrate such a need or an intrinsic link to the area. The applicant has not submitted any additional documentation demonstrating compliance with Section 10.4 of the Meath County Development Plan 2013-2019 and the development should therefore be refused.

- The new houses are to be located on lands which were originally identified as public open space. If the dwellings were constructed the only areas of public open space remaining would be a strip to the front of the site and the percolation area associated with the waste water treatment system to the rear of the site. The remaining open space equates to 26% of the total site area.

### 3.2.2. Other Technical Reports

- Transportation Department – The works required to construct the access to units at the south of the site are outside the red line boundary and the parking layout at the south west of the site is unsatisfactory as it would result in blocked in parking. It is recommended that further information be requested to submit a revised layout with the required works within the red line boundary and a revised layout for the parking arrangement at the south-west unit.
- Water Services – The development as proposed does not meet the requirements of Meath County Council Water Services Section with regards to the orderly collection, treatment and disposal of surface water. Further information is requested with regards to a design which incorporates the existing and proposed arrangements and fully encompasses the requirements of the Greater Dublin Strategic Drainage Study, (GDSDS).

### 3.3. Prescribed Bodies

- DAA – The proposed development is located within Zone C of the revised airport noise zones, as set out under Variation No. 1 of the Fingal Development Plan 2017-2023. Under this variation, noise sensitive development within Zone C will come under assessment for appropriate noise mitigation measures. It is recommended that the Planning Authority either attach conditions or request further information to ensure adequate noise insulation is provided.
- Irish Water – No objection subject to conditions.
- Inland Fisheries – The development is located adjacent to the River Ward, which is an important salmonid system, and supports both salmon and trout populations. Compliance with EPA guidance is essential, as is the efficient

operation and maintenance of the onsite treatment system to safeguard from foul water pollution. Only clean uncontaminated surface waters can be allowed to discharge to the ground and surface water system, both during construction and operation. All discharges must be in compliance with EU Regulations.

### 3.4. **Third Party Observations**

One observation was received from Cllr Alan Tobin. The development must adhere to the provisions of the Meath County Development Plan in terms of providing a minimum of 15% of open space.

## 4.0 **Planning History**

**AA200459** - Planning permission refused by the Planning Authority in July 2020 for 4 houses within a development of 10 houses permitted in 2006 under DA50406. The additional houses would comprise 1 x 1.5 storey, 3 bed unit of 114m<sup>2</sup> and 3 x 2 storey, 4 bed units of circa 210-250m<sup>2</sup> with associated works.

The development was refused as the applicant did not submit information which established a site specific rural generated housing need for the additional dwellings which is required by the Development Plan as the site is located in a Rural Area under Strong Urban Influence.

**AA191578** – Planning permission refused by the Planning Authority in January 2020 for 2 x detached, 4 bed dwellings of 210-250m<sup>2</sup> with associated works. The development was refused as the applicant did not submit information which established a site specific rural generated housing need for the additional dwellings which is required by the Development Plan as the site is located in a Rural Area under Strong Urban Influence and outside of a designated settlement.

**PL17.249229, (AA170810)** – Split decision issued by An Bord Pleanala in February 2018. Planning permission was granted for 10 no. detached garages of 40m<sup>2</sup> to existing dwellings and permission was refused for 4 detached dwellings for the following reasons:

1. Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with Policy RD POL 1 and Section 10.4 of the current Meath County Development Plan, it is considered that there is insufficient information submitted to demonstrate compliance with the housing need criteria as set out in the Guidelines or the Development Plan for houses at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute, in conjunction with the existing development of the area, to the encroachment of additional rural development in the area and would constitute an excessive density if suburban-style development which militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the insufficient information submitted on the increase in capacity of the on-site treatment system, it is considered that, taken in conjunction with existing development in the vicinity, the area of the site is inadequate for the satisfactory disposal of septic tank effluent. The proposed development would, therefore, be prejudicial to public health. It is also considered, the inadequate treatment of effluent would have a detrimental impact on the fish species of the adjoining River Ward due to water pollution and would therefore be contrary to the proper planning and sustainable development of the area.

**AA170092** – Planning permission granted by the Planning Authority in March 2017 for the retention as constructed of 10 completed, detached, 4 bedroom houses, with all service roads and drainage works.

Planning permission was also granted by the Planning Authority for an amendment to Condition No. 2 of DA50406 which required that the developer shall submit details of the intended first occupant of each dwelling to demonstrate compliance with

Section 3.4.3, (rural housing need), of the Development Plan prior to the commencement of development in respect to each individual house. The condition was amended and attached as Condition 3 as follows;

*The first occupant of each dwelling shall demonstrate to the satisfaction of said management company, required under Condition 2, an intrinsic link to a rural areas in the Ashbourne Municipal District outside zoned development boundaries.*

*Reason: In the interests of planning control.*

**DA101156** – Permission granted by the Planning Authority in November 2010 for an Extension of Duration of Ref. DA50406 to the 12<sup>th</sup> March 2016.

**DA50406** – Planning permission granted by the Planning Authority in January 2006 for the demolition of existing clubhouse and ancillary facilities and the construction of 10 no. two storey detached dwellings with associated landscaping works, new vehicular entrance to the public road and proprietary waste water treatment plant on a site of 2.49ha.

Condition No. 2 of this permission requires that *'The first occupant of each dwelling shall satisfy the Planning Authority's policy with respect to new residential development in rural areas under high development pressure areas, as laid out in Section 3.4.3(ii) of the County Development Plan 2001. The developer shall submit details of the intended first occupant of each dwelling such as would demonstrate compliance with Section 3.4.3(ii) of the County Development Plan 2001 prior to commencement of development in respect of each individual house. Prior to the construction of each individual dwelling the intended occupier and/or owner shall enter into an agreement with the Planning Authority pursuant to Section 47 of the Planning and Development Act 2000 or any amending or replacement statutory provision, providing that the premises to be constructed pursuant to this permission be occupied for a period of not less than five years from the date of first occupation, (which is to be agreed with the Planning Authority) by the owner/occupier who has entered into the Section 47 agreement with the Planning Authority'*.

Reason: In the interests of planning control.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Meath County Council Development Plan 2013-2019.**

The subject site is located outside of the development boundary of any designated settlement and as such is located on unzoned land.

The site is also identified as a Rural Area under Strong Urban Influence, (Map 10.1 – Rural Area Types).

#### **Chapter 10 – Rural Development:**

**RUR DEV SP 1** - To adopt a tailored approach to rural housing within County Meath as a whole, distinguishing between rural generated housing and urban generated housing in rural areas recognising the characteristics of the individual rural area types.

**RUR DEV SP 2** - To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria. An assessment of individual rural development proposals including one-off houses shall have regard to other policies and objectives in this Development Plan, and in particular Chapter 9 Section 9.6.7 UNESCO World Heritage Site of Brú na Bóinne.

#### **Rural Areas under Strong Urban Influence;**

**RD POL1** - To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria.

**RD POL 2** - To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.

Additional policies;

**HS POL 3** To integrate new housing into the existing social and urban fabric of the County's settlements detailed in Table 3.2.

## 5.2. National Policy

### **Sustainable Rural Housing Guidelines for Planning Authorities, (DEHLG 2005).**

A number of different rural area types are identified and policies and objective are recommend to address issues specific to each one.

The subject site is identified as an Area Under Strong Urban Influence. The key Development Plan objective for these areas should be to facilitate the housing requirements of the rural community as identified by the Planning Authority whilst also directing urban generated development to areas zoned for new housing development.

Appendix 4 – Ribbon Development - The guidelines recommend against the creation of ribbon development and suggest that other forms of development, such as clustered development, well set back from the public road and served by an individual entrance can be used to overcome these problems in facilitating necessary development in rural areas. Planning authorities will need to arrive at a balanced and reasonable view of the given criteria taking account of local circumstances, including the planning history of the area and development pressures.

### **National Planning Framework -2040**

National Policy Objective 19 - Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;

## 5.3. Natural Heritage Designations

No designations apply to the site.

The site is located approximately 11.5km from the Malahide Estuary SPA, (004025) and SAC, (000205).

## **6.0 The Appeal**

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

The grounds of appeal, as raised in the submission from the first party appellant can be summarised as follows;

- Recent development patterns in the area have not been considered by the Planning Authority or the Board.
- Census figures from 2011-2016 do not show that the area is a Rural Area under Strong Urban Influence. (The population of Meath grew by 5.92% but the SAPS show that the area that the site is located in grew by just one person in the same period).
- The refusal reason references the definitions as set out in the Sustainable Rural Housing Guidelines. The appellant contends that these definitions are based merely on geographical factors and, just because a location is close to an urban area does not mean that it is actually experiencing development pressure from the urban population seeking to relocate to the rural areas. Furthermore, the Guidelines recommend the clustered approach to the provision of rural housing rather than perpetuating ribbon development.
- Recent planning history in the immediate area shows that permissions have been granted for 6 houses on individual sites in close proximity. This demonstrates that there is both a demand and a need for rural generated housing that could be better satisfied on the appeal site rather than on individual sites.
- It would be more sustainable to build a house or houses within this existing development rather than on a series of greenfield sites.
- Conditions were attached to the parent permission, (DA50406 & DA101156) and AA170092 which require the future occupants to demonstrate housing need as per the Development Plan. Therefore, only persons who comply with

the rural housing policy can purchase the houses. To date 7 of the houses have been sold with negotiations ongoing for another 2.

- This demonstrates that there is a demand for multi-unit housing in rural areas and that developments of this nature are a viable alternative to a proliferation of one-off houses.
- Neither Meath Co. Co. or An Bord Pleanala are ruling out the development of additional houses once an applicant is identified for each unit.
- Under the original planning permission, the site was referred to as a 'brownfield' site. Much larger developments have been permitted on greenfield sites, (reference is given to PL17.245347), which would have a much greater impact on the integrity of the rural area.

## 6.2. Applicant Response

In this instance the applicant is the appellant.

## 6.3. Planning Authority Response

The Planning Authority had the following comments;

- The application site is located in a Rural Area under Strong Urban Influence and is not zoned for residential development.
- The planning policy framework for housing in rural areas requires a demonstration of a location of a location-specific, rural housing need. Section 10.4 of the Meath County Development Plan 2013-2019 demonstrates how this can be achieved.
- The applicant has not submitted any details in relation to local housing needs or details that demonstrate compliance with the rural housing policy.
- It is noted that planning history for the site, Ref. AA/170810 & AA191578, also refused permission for additional houses on the site for failure to comply with the rural housing policy.
- The proposed dwellings would be constructed on areas previously identified as public open space. If they were constructed the only areas of public

amenity space would be a strip to the front of the development and the percolation area associated with the waste-water treatment system.

#### 6.4. **Observations**

One observation was received from the DAA which notes that the site is located within the outer noise zone and that Meath County Development Plan seeks to control inappropriate development and require noise insulation where appropriate. Therefore, the Board may wish to attach specific conditions to any grant of permission.

### 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle & Policy
- Design & Site Layout
- Drainage & Infrastructure
- Appropriate Assessment

#### 7.2. Principle & Policy

The subject site is located in a rural area, outside of any settlements designated in the Meath County Development Plan and is not zoned for residential development. It is close to the built up area of Dublin city and a junction on the M2 motorway. The arguments in the submitted appeal would not support a conclusion that its designation as being under strong urban influence in the sustainable rural housing guidelines is inappropriate. Therefore, the principle of development on the site is questionable.

The County Development Plan can allow for individual house developments in rural areas where a housing need can be demonstrated. As the site is located in a Rural Area under Strong Urban Influence, any permissions for rural housing require the applicant to demonstrate housing need as per Section 10.4 of the County

Development Plan. The subject proposal is for four houses and housing need has not been identified for any of the dwellings. In order to circumvent this issue, the applicant has suggested that a condition be attached to any grant of permission that, prior to the commencement of each individual dwelling, the developer shall submit details to demonstrate housing need as per the Development Plan, for the intended first occupant of each dwelling. I note that a similarly worded condition was attached to the parent permission in 2006, (Ref. DA50406). The developer sought to amend this condition in 2017 under Ref. AA170092 as the condition was deemed to be prejudicial to prospective occupants obtaining mortgages. It is not clear how this situation has changed and, why a similar condition would now be acceptable. In my opinion this approach would lead to speculative development and is not in keeping with the overall intent of the housing policy for rural areas as set out in Chapter 10 of the Meath County Development Plan. The principle of development on unzoned land within the site is not acceptable.

The appellant has argued that a clustered approach to rural housing provision is supported by national policy and is a preferable option to the proliferation of ribbon development. I would add that the guidelines note that areas characterised by ribbon development will in most cases be located on the edge of cities and towns and will contribute to a high density of almost continuous road frontage type development. Whilst specific circumstances may allow for this approach as an alternative to one-off houses, I am of the view that the context of the subject site does not qualify for such a proposal. In my opinion, the additional housing within this site would further add to the suburban nature of the development, which is not in keeping with the rural character and context of the site.

It is also argued in the grounds of appeal, that the site was formerly a brownfield site and as such planning policy in the Meath CDP supports development on brownfield lands within settlements. I note that this argument has been made in the planning history for the site. However, I am of the opinion that, a former GAA clubhouse and pitch does not constitute a brownfield site, as the majority of the land had not been developed and was a greenfield site prior to the construction of the dwellings. I further note that the proposed dwellings would be located on areas designated as public open space in previous applications.

### 7.3. Design & Site Layout

The additional dwellings are large in scale and of a similar design to those already constructed. There would appear to be sufficient space within the site to accommodate the dwellings subject the standards for residential accommodation as set out in the CDP and National Guidance.

I note that the Transportation Department of the Planning Authority had concerns regarding the parking layout for the dwelling on the south-western corner, which is close to the entrance to the development. In my opinion, this is a minor issue that could be addressed by condition.

The houses would be located on areas of the site that were designated as public open space in the parent permission. The Planning Officer's report notes that the quantum of public open space remaining would constitute 26% of the overall site area. Whilst this figure meets the open space standards as per the Development Plan, the quality of the space is questioned as it would almost fully comprise of the percolation area associated with the on-site waste treatment system. In my opinion greater consideration should be given to providing good quality open space within the site.

### 7.4. Drainage & Infrastructure

A waste-water treatment system has been installed within the site. The system comprises underground settlement tanks and an associated percolation area which has been positioned along eastern boundary of the site.

Condition No. 2 of the parent application, (Ref DA50406), required that the waste-water treatment system shall be designed to cater for a PE of 80. This was based on the calculation that each house had 4 double bedrooms and could therefore accommodate 8 persons.

Information submitted with the subject application states that the PE loading for the system would be a maximum of 80. To date 10, 4 bed houses have been constructed on the site. The subject proposal would add three 4 bed houses and one 3 bed house to the development.

Based on the maximum capacity of the proposed dwellings, the system would need to accommodate an additional 27 persons, (3 dwellings with 7 bedspaces; 3 double bedrooms and 1 single, and 1 dwelling with 6 bedspaces; 3 double bedrooms). This would require a system designed to cater for a PE of 107. Therefore, the existing system has not been designed to cater for the additional dwellings and would not be sufficient to accommodate the additional loading.

The report from the Water Services Section of the Planning Authority raised concerns regarding the lack of a proper design for the collection, treatment and disposal of surface water arising from the proposed development and recommended that further information be requested.

I am also of the opinion that some details regarding the surface water treatment are unclear. Planning history for the site submitted under Ref. AA191578 in 2020, sought permission for 2 additional houses to the north of the site. Drawing 81517-02 of this application, Foul Storm and Road Sections, shows two attenuation tanks positioned in the south east corner of the site. The subject application shows one of the new houses in the location of one of the attenuation tanks and only one tank is shown adjacent to the proposed house.

No reference is made in the application as to why one attenuation tank is removed from the system and why one tank is now considered to be sufficient.

A submission was received from Inland Fisheries Ireland and notes the proximity of the site to the River Ward, which is an important salmonid system that also supports trout populations. The submission states that the efficient operation of the onsite treatment system will be essential to safeguard from foul water pollution and only clean uncontaminated surface waters must be allowed to discharge to the ground and surface water system.

I consider that the details submitted with regard to the capacity of the on-site waste water treatment system and the surface water drainage system do not adequately demonstrate how the waste and drainage can be dealt with safely within the site, and as a result, the proposal would be prejudicial to public health.

I would draw the Board's attention to the fact that the insufficient capacity of the on-site waste-water and surface water drainage systems did not form a reason for

refusal in the Planning Authority's decision. As such, the Board may consider this a new issue for in the context of the appeal.

#### 7.5. Appropriate Assessment

The subject site is located 11.5km from the edge of Broadmeadow/Swords Estuary SPA of which comprises the estuary of the River Broadmeadow and is of high importance for wintering waterfowl. The site is not connected to the Broadmeadow/Swords Estuary SPA by any hydrological pathways, therefore, having regard to the nature and scale of the proposed development and the location from any designated sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

### 8.0 Recommendation

8.1. I recommend that planning permission should be refused for the reasons as set out below;

### 9.0 Reasons and Considerations

1. The site is in an unserviced rural area under strong urban influence as identified in the Guidelines for Planning Authorities on Sustainable Rural Housing issued by the Department of the Environment, Heritage and Local Government in April 2005, and where housing is restricted to persons demonstrating local need in accordance with Policy RD POL 1 and Section 10.4 of the current Meath County Development Plan. The proposed development would contravene the policies set out in those guidelines, in the development plan and at objective 19 of the National Planning Framework to restrict the development of housing in such rural areas. The proposed development of 4 houses would not comply with the housing need criteria as set out in the Guidelines or the development plan for houses at this location.

The proposal would, in conjunction with the existing houses of the area, constitute an excessive density of suburban-style development which would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The on-site treatment system has not been designed to cater for the increase in population from the proposed development and it is considered that the capacity of the on-site treatment system, taken in conjunction with existing development on the site, is inadequate for the satisfactory disposal of septic tank effluent. The proposed development would, therefore, be prejudicial to public health. It is also considered that the inadequate treatment of effluent would have a detrimental impact on the fish species of the adjoining River Ward due to water pollution and would therefore be contrary to the proper planning and sustainable development of the area.

---

Elaine Sullivan  
Planning Inspector

16<sup>th</sup> October 2020