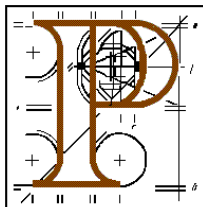


An Bord Pleanála



Inspector's Report

Development: Dormer Type House, Garage / Fuel Store, Wastewater Treatment Plant, at Cloncurry, Enfield, Co Kildare

Planning Application

Planning Authority: Kildare County Council

Planning Authority Ref.: 15/450

Applicant: Gareth Preston

Type of Application: Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant: Gareth Preston

Type of Appeal: 1st vs Refusal

Observers: None

Date of Site Inspection: 14 January 2016

Inspector: Juliet Ryan

1 THE SITE

- 1.1 The appeal site, with a stated area of 0.69 ha, is located on the northern side of the R148 just east of Cloncurry Crossroads in a rural area between Kilcock and Enfield (c.2.5 km east of the latter).
- 1.2 The site is a greenfield site and part of a larger farmholding, which is bisected by the R148, which runs east-west, thus creating northern and southern sections of the landholding. The site is situated within the northern field. Its irregular shape arises from the red line boundary taking in the existing agricultural entrance to the field from the R148. The site is delineated to the south by the R148 where there is a grass verge and low hedging; to the east by mature trees and hedgerow and a stream, and on remaining sides by the wider field in which it is situated. Due to the generally flat topography in the area combined with the low boundary treatment along the R148, the site is widely visible in the vicinity.
- 1.3 The R148 is subject to an 80kph speed limit in the vicinity of the subject site, with a double continuous white line and signage prohibiting passing for 1km. The road was heavily trafficked in both directions at the time of the site inspection.

2 THE PROPOSED DEVELOPMENT

- 2.1 The application site is within the wider family landholding. A letter of consent from the Applicant's father for the making of the application is included on file. The proposed development comprises a detached dormer dwelling of 217 sq m with a separate garage (40 sq m). Access is proposed from the existing agricultural access.
- 2.2 The dwelling has a ridge height of 6.62 metres and is proposed to be finished in nap plaster with a natural stone finish on the porch and projecting lounge.
- 2.2 Access is proposed in the general location of the existing field access, with the latter to be modified to a recessed position and the splay widened to accommodate the new entrance to the dwelling. A driveway running generally parallel to the road will run for some 100 metres, approximately, from the entrance to the dwelling & garage.
- 2.3 The development is proposed to be served by a proprietary treatment plant with percolation area. A Site Suitability Assessment has been submitted with the application in this regard, which found a T value of 49.

3 THE DEVELOPMENT PLAN

- 3.1 The statutory plan is the Kildare County Development Plan 2011-2017.
- 3.2 Chapter 4 sets out the Plan's rural housing policy, which seeks to manage the provision of single housing development in the countryside and restrict such development for those with demonstrable "local need" (cf S.4.13 and Policy RH4, excerpts appended), of which the subject site is located in Local Need Zone 1 (cf Table 4.3, appended). Permissions granted in accordance with the latter will have a 7 year occupancy condition (Policy RH8).
- 3.3 Policy RH5 (excerpt appended) requires that applicants for rural housing must comply with all other normal siting and design standards, including, *inter alia*, provision of safe vehicular access.
- 3.4 Policy RH6 (excerpt appended) seeks to restrict new accesses for one-off dwellings onto regional roads with an 80kph speed limit except in circumstances of an existing entrance, and the Applicant demonstrating that there are no other accesses or suitable sites within the landowner's landholding.
- 3.5 Policy RH7 (excerpt appended) prohibits residential development on a landholding where there is a history of speculative development regardless of local need criteria.
- 3.6 In the Movement and Transport section of the Development Plan, Policy RR1 echoes Policy RH6 (excerpt appended).

4 PLANNING HISTORY

4.1 Subject Site

There is no planning history pertaining to the subject site.

4.2 Wider Landholding

4.2.1 Family Home

The Planner's Report details the planning history of the landholding, whereby it appears a replacement farm house was permitted in 1988 and an extension (& biocycle water treatment system) was granted in 2001.

4.2.2 Recent Permission

Planning permission was granted to Dermot Preston (Applicant's brother) for a 1.5 storey dwelling with garage / fuel store, proprietary

wastewater treatment plant & percolation area on a site on the southern side of the R148 within the family landholding in October 2015 (Reg. Ref 15/407)

5 PLANNING AUTHORITY DECISION

5.1 Internal Reports

- 5.1.1 The Area Engineer, Water Services, Environment, Chief Fire Officer, and Environmental Health Officer had no objection to the proposal subject to conditions.
- 5.1.2 The Transportation Department's Report sought revised proposals demonstrating use of the existing entrance to the family home and the site of the planning application for Dermot Preston on the southern side of the R148 (in order to avoid new entrance onto regional road with an 80 kph speed limit).
- 5.1.3 The Heritage Officer recommended Further Information or Conditions regarding hedgerow planting and use of native species.

5.2 Planner's Report

The Planner's Report was generally satisfied with the proposal, but considered more appropriate sites within the landholding were available on the southern side of the road whereby existing driveways could be used. It recommended Additional Information be requested along the lines of that sought by the Transportation Department and the Heritage Officer.

5.3 Additional Information

- 5.3.1 The Planning Authority requested additional information in respect of two items, as follows:
 - 1. Reconsider proposed application in light of more suitable sites on southern side of R148
 - 2. Details of native planting for boundary treatment
- 5.3.2 In the response submission, the applicant states that the existing agricultural entrance is likely pre-63 (includes aerial photographs) and submits that the improvement of it for a rural house complies in full with the provisions of the Development Plan. The response also includes a drawing detailing proposed boundary planting.

5.4 Planning Authority Decision

5.4.1 Internal Reports

Consequent to the receipt of Additional Information, neither the Heritage Officer nor the Transportation Department had objections, subject to condition.

5.4.2 Planner's Report

The Planner's Report considered that the applicant had not adequately justified the location of the proposal or why more suitable sites on the landholding were not being considered.

5.4.3 Decision

The Planning Authority decided to refuse permission for two reasons, which may be summarised as follows:

1. Contravenes policy RR1 given availability of more suitable sites on landholding on southern side of R148
2. Intensified use of agricultural entrance where a more appropriate alternative exists would set undesirable precedent; would reduce capacity of the road; and would interfere with safety and free flowing nature of traffic on the road.

6 GROUNDS OF APPEAL

The appeal submitted on behalf of the First Party may be summarised as follows:

- House is modest in size and site is part of family farm, which contains no important features
- Roads Department had no objections to proposal
- Farm is bisected by R148, and applicant is due to inherit northern tract of land
- Makes sense for dwelling to be built adjacent to land for farming (i.e. land on northern side of R148)
- Site is served by existing longstanding agricultural entrance
- Planning Authority accepts applicant's eligibility for house in Cloncurry

- Unreasonable for Planning Authority to insist on relocation of dwelling given that it accepts the proposal in terms of design, traffic, wastewater treatment etc
- Planning Authority does not justify assertion in Planner's Report that there are more appropriate sites for proposal
- Refers to precedent established by permission for dwelling with new entrance on site opposite (Reg Ref 14/520)
- No benefits to relocating house to south of R148
- Planning Authority has taken inconsistent approach in determining on the one hand that the dwelling would be acceptable on the opposite side of the road, while on the other hand determining that the proposal would reduce the carrying capacity of the road
- Carrying capacity of R148 not affected by whether house is on northern or southern side of road
- Effect of proposal on traffic patterns would be negligible
- No evidence to support contention that proposal would interfere with free flowing nature of traffic on the road; a fact that was not raised in the Planner's Report
- R148 is straight with good visibility in vicinity of subject site
- Planner's Report does not raise issues of road safety
- Refers to Board precedent PL.17.224337 and submits that road safety (as opposed to the free flow of traffic) is the key consideration
- Existing entrance is longstanding (Additional Information submission provided aerial photos and suggested that entrance might be pre-1963)
- Submits that proposal accords with policy RR1
- The potential availability of alternative sites on the landholding does not of itself make the subject proposal unacceptable
- Applicant does not have control / ownership over wider landholding
- Planner's Report does not identify perceived advantages of alternative entrance (i.e. shared with existing residential entrance on southern side of R148)

- Refers to Board precedent PL27.234751 whereby reference to alternative site on landholding was expressly linked with identified land use planning matters
- Existing agricultural entrance shares generally same road characteristics as does existing residential entrance to the family home
- Applicant currently resident in the area so there will be no net increase in traffic
- Given that farm is currently bisected by R148, there is currently a significant amount of traffic crossing to and from the northern lands for farming purposes. As such, the intensification of use of the existing agricultural access should not be overstated.
- Refers to Board precedent PL17.220448 whereby Board reversed decision of planning authority to refuse permission for dwelling with entrance off regional road
- Submits that undue weight should not be attached to precedent-setting by subject proposal
- Development Plan expressly provides for use of existing entrances on regional roads

7 PLANNING AUTHORITY RESPONSE

The Planning Authority states that it has no further comment to make; and refers the Board to its Planner's Report.

8 ASSESSMENT

Given that the subject site is not either individually or in combination with other plans and projects likely to affect a Natura 2000 site, an Appropriate Assessment was not considered necessary in the instant case.

8.1 Principle of Proposal

- 8.1.1 The site is an agricultural field in a rural area and is not zoned for housing development. In such circumstances I would consider there should be a presumption against the principle of the subject proposal at the subject site save for in instances that would accord with the Development Plan's rural housing policy.

8.2 Accordance with Rural Housing Policy

- 8.2.1 In respect of the criteria for rural housing development set out in Section 4 of the Development Plan, the Applicant has submitted various documentation with the application indicating that he has attended local schools and currently lives in the family home in the vicinity of the subject site. This, combined with Land Registry documentation confirms that the applicant is the son of the landowner (the latter having owned the wider landholding since 1988), who has provided written consent for his son to make a planning application in respect of the subject site.
- 8.2.2 The Planning Authority was satisfied that the Applicant demonstrated a rural housing need and complied with the category 2 Zone 2 criteria of its rural housing policy. I am similarly satisfied that the Applicant meets the qualifying criteria.
- 8.2.3 In view of the above, it is my opinion that the principle of the proposed development accords with policy RH4 of the Development Plan.

8.3 Design

- 8.3.1 The 1.5 storey dormer dwelling is positioned some 32 metres back from the roadway. Notwithstanding this setback, the site's lack of natural screening and consequent visibility in the wider area means that any structure erected thereon would be a notable intervention in the landscape. This is exacerbated by the meandering entrance drive, the c.100 m length of which is a product of the use of an existing agricultural entrance to access the site. In this regard I would share the original concerns of the Heritage Officer with regard to boundary treatment and planting of native species. The Board is referred to drawing No. 1 submitted at Additional Information stage, which illustrates proposed native planting. Whilst the proposed boundary treatment to the north and west is welcome, I would be concerned as to the lack of screening of the driveway. Were the Board so minded to grant permission I consider this could be addressed by condition requiring additional native planting along the southern side of the driveway. This would have the secondary benefit of also providing a certain degree of screening of the dwelling within the landscape.
- 8.3.2 Overall I consider the design and layout of the dwelling to be satisfactory save for the feature stone cladding, which I would recommend be removed and replaced with a nap plaster finish. This could be managed by condition.

8.4 Access and Road Safety

- 8.4.1 The Planning Authority's two reasons for refusal relate to the issue of traffic access: one regarding the contravention of Policy RR1 and the other dealing with more general impacts on the regional road. I will address each of these in turn.
- 8.4.2 The First Party Appeal has made various arguments in respect of the acceptability of the proposed access. I would consider policy RR1 to be clear and unambiguous in this regard, in that it seeks to restrict new accesses onto regional roads subject to an 80kph limit except in exceptional circumstances. Of these exceptional circumstances, the latter applies to the subject proposal:

Where applicants comply with Policy RH4 ... and cannot provide access onto a nearby county road and therefore need to access a Regional Road. In this instance, applicants will only be permitted to maximise the potential of existing entrances. The onus will be on applicants to demonstrate that there are no other accesses or suitable sites within the landowner's landholding. (KCDP S.6.4.3 p.100 – full excerpt copy appended)

- 8.4.3 Arising from the above, there is provision to maximise the potential of the existing agricultural entrance onto the R148 provided that there are no other accesses or suitable sites within the wider landholding. The applicant is required to demonstrate this, and has been afforded the opportunity to do so in the Planning Authority's Additional Information Request. In a brief response, the Applicant merely reiterates that the existing entrance is longstanding and that he accords with policy RH4. Neither of the latter two facts are in dispute. The response finally adds that the land has been farmed since 1988 and that there is constant crossing over between the land and the existing house (on the southern side of the R148). There is no demonstration that any sequential analysis or consideration of more appropriate sites / access points on the landholding has been undertaken.
- 8.4.4 Arising from the above, I consider Reason no. 1 of the Planning Authority's refusal to be wholly appropriate. In forming this opinion I note that Policy RR1 refers to the 'landowner's landholding' and not to that parcel of land that the Applicant in the instant case is due to inherit. I would also draw the Board's attention to the Site Location Plan submitted with the application, which illustrates the extent of land in the wider landholding (including that parcel that recently received permission for a dwelling under Reg Ref 15/407), and would agree with the Planner's Report that there would appear to be more appropriate sites with the potential for shared access on the southern side of the R148.

8.4.5 In respect of Reason No. 2 of the refusal, I would tend to agree with the Appellant that the degree of intensification of use of the existing entrance arising from a single dwelling is not likely to be significant nor do I consider the traffic generated by the proposal would have any notable impact on the carrying capacity of the regional road. I would, however, agree with the Planning Authority that the proposal would set an undesirable precedent for such accesses onto the Regional Road, and, more important, that the traffic turning movements to and from the dwelling would interfere with the safety and free flowing nature of traffic on the R148. In forming this opinion I note that the 80 kph speed limit applies, that there is a double continuous white line in the vicinity of the subject site, and that the road was subject to a significant and constant volume of traffic in both directions at the time of the site inspection.

8.5 Impact on Ground and Surface Water

8.5.1 The local area is unserved in terms of wastewater treatment, thus necessitating the use of an individual effluent treatment system on the subject site. The Applicant provided a Site Suitability Assessment including a trial hole test, which produced an average T value of 49. This is within the range considered suitable for a secondary treatment system per the EPA's *Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses* (2009). I am thus satisfied that the proposal is acceptable in terms of wastewater treatment, as was the Planning Authority, and would note that the site appeared relatively well drained upon site inspection despite a period of prolonged and heavy rain.

9 CONCLUSION AND RECOMMENDATION

9.1 Conclusion

I have had regard to all other matters raised in the instant case, but do not consider them to be so material to the consideration of the merits of this proposal as to warrant a different conclusion from that set out below.

9.2 Recommendation

I have read the submissions on file and visited the site and surrounding area, and had due regard to the provisions of the Development Plan, the *Sustainable Rural Housing Guidelines for Planning Authorities*, the EPA's *Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses* (2009), and all matters arising. Following from this I conclude that planning permission should be refused for the reason set out below.

REASON

1. Policy RR1 of the Kildare County Development Plan seeks to restrict new accesses onto regional roads that are subject to an 80kph speed limit, except in exceptional circumstances. In the particular case of proposals according with the Development Plan's rural housing policy, the use of existing entrances will only be permitted where applicants can demonstrate that there are no other accesses or suitable sites within the landowner's landholding. This policy is considered reasonable. The Applicant has not demonstrated to the satisfaction of the Board that there are no other alternative sites on the landholding that would be more appropriate for the subject proposal. The proposal would, therefore, be contrary to Policy RR1 of the Development Plan and would interfere with the safety and free flowing nature of a heavily trafficked section of regional road. The proposal, would, therefore be contrary to the proper planning and sustainable development of the area.

**Juliet Ryan
Senior Planning Inspector**

16 February 2016