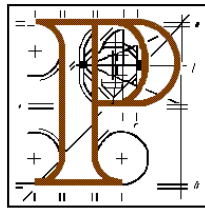


An Bord Pleanála



Inspector's Report

PL15.245951

DEVELOPMENT: Outline Permission for 1 no. single-storey dwellinghouse along with garage, wastewater treatment system and all associated site works, at Ballyoonan, Omeath, County Louth.

PLANNING APPLICATION

Planning Authority: Louth County Council

Planning Authority Reg. No.: 15/480

Applicant: Charles MacCreanor

Application Type: Outline Permission

Planning Authority Decision: **REFUSE OUTLINE PERMISSION**
for Reasons and Considerations (1)

APPEAL

Appellant: Charles MacCreanor

Type of Appeal: **FIRST PARTY**

Observer: None

DATE OF SITE INSPECTION: 11th March 2016

INSPECTOR: Dermot Kelly

1. SITE LOCATION

The subject site is located at Ballyoonan, Omeath, County Louth, as indicated on **APPENDIX A - LOCATION MAP**.

2. SITE DESCRIPTION

2.1 The subject site lands at Ballyoonan, Omeath, County Louth are approximately 0.92 hectares in area as submitted and are located on the seaward side of the Carlingford – Omeath Road (R173) approximately one kilometre to the south of Omeath Village.

2.2 The Planning Report for the Planning Authority stated:
'The site is essentially a small agricultural field, enclosed on 3 sides by mature trees and on the other side by the new Greenway public walk, and the trees along the coast. There is a fence along the Greenway boundary with the site. There is an existing mature roadside hedgerow and stone wall to the front of the site along the roadside. The site is higher at the southern end, where the dwelling is proposed. Adjacent to the site to the south-east is a popular public shrine or grotto.'

2.3 The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

3. PROPOSED DEVELOPMENT

3.1 Planning Application

- The proposed development comprises as specified in the Public Notices: Outline Permission for 1 no. single-storey dwellinghouse along with garage, wastewater treatment system and all associated site works, at Ballyoonan, Omeath, County Louth.
- The proposed single-storey dwelling to a specified floor area of 220 square metres would be served by a proposed proprietary wastewater treatment system and private well. A detached garage adjacent to the proposed dwelling and a vehicular entrance off the Carlingford – Omeath Road (R173) are also proposed.

3.2 Further Information Request

The Planning Authority by letter dated 3rd September, 2015 sought Further Information including as follows:

‘1. The applicant shall submit the following documentation to show compliance with the qualifying criteria as set out in Section 4.6.2 of the Louth County Development Plan.....

2. The applicant is requested to submit a revised site layout showing the extent of the removal of the roadside boundary wall/hedge/trees, and any Eircom or electricity poles required to be removed in order to achieve visibility in accordance with DMURS (Design Manual for Urban Road, issued by the Department of Transport and Sports).’

A revised Site Layout Plan indicating the location of the proposed well on the site was also requested.

3.3 Further Information Submission

Further Information was received on 5th November, 2015 including:

‘1. The applicant qualifies for local needs as the son of a qualifying landowner. I have enclosed the following documentation.

(a) A copy of the Land Registry Folio which clearly shows that the land has been in the possession of the applicant's family for over 25 years.

(b) A letter of permission from the landowner.

(c) Proof that Charles MacCreanor does not own a house in the area or currently reside in the area. This proof consists of a letter from Charles MacCreanor together with a rates bill from his current residence.’

A revised Site Layout Plan as requested was submitted.

4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports

4.1 Third Party Submissions on Planning Application

No Submissions were received.

4.2 Environment Section Report

This report, dated 4th August, 2015 included stating that Further Information was recommended requiring as follows:

'(1) Show location of proposed well on site layout plan. Show distance from well to proposed effluent treatment system and percolation area. (2) Confirm that it is proposed to install 60 linear metres of percolation drains.'

4.3 Infrastructure Section Report

This report, dated 28th August, 2015 including stating as follows:
'Request the applicant to submit a revised site layout clearly showing the extent of removal of roadside boundary wall/trees/hedge, and any Eircom or electricity poles required to be moved in order to achieve visibility in accordance with DMURS (Design Manual for Urban Roads issued by the Department of Transport and Sports).'

4.4 Submission of the Loughs Agency

This Submission received 2nd September, 2015 included:
'Loughs Agency considers it necessary for the applicant to adopt the minimum distance requirements for the percolation area and any nearby watercourses. All matters pertaining to the disposal of the domestic wastewaters, including the construction of any treatment system and percolation area, should be carried out in accordance with the EPA guidance.'

4.5 Planning Report for Planning Authority

- The Planning Report, dated 26th August, 2015 included a Site Description and documented relevant provisions in the Development Plan. Under 'Rural Housing Policy' was stated:
'The application site is located within Development Control Zone 3 of the Louth County Development Plan. The applicant has submitted the following documentation to show compliance with the qualifying criteria as set out in Section 4.6.2 of the Louth County Development Plan:
 - Land registry maps showing that the site has been in family ownership for over 10 years (site owned by a Mr. Patrick MacCreanor?).
 - Rural Housing Needs form, with current address given as Ballymore Road, Glenavy, Crumlin, Co. Antrim.No other documentation has been submitted with the application for assessment.', and also

'Policy SS 35

The site size proposed is 0.917 hectares. As this is only outline permission a condition shall be applied to ensure that the floor area of the dwelling is in compliance with that required by Policy SS 35 of the Development Plan.

Policy SS 36

The proposed site is located along a public road which has experienced the development of a number of one-off dwellings in a row along the northern side. Policy SS 36 seeks to 'prevent the creation of ribbon development by not permitting more than four houses in a row along any public road. A minimum gap of 400 metres shall be maintained between such developments'. The proposed development is not considered ribbon development.'

- It was recommended that Further Information as specified regarding the Rural Housing Policy in the Development Plan be requested.

4.6 Environment Section Report on Further Information Submission

This report, dated 10th November, 2015 included stating as follows: 'The applicant has submitted adequate information to satisfy the Environmental Compliance Section that there will be no threat of environmental pollution from the proposed development. Consequently the Environmental Compliance Section recommends that planning permission be granted in this case subject to the following conditions..'

4.7 Infrastructure Section Report on Further Information Submission

This report, dated 11th November, 2015 included a Condition relating to sightlines at the proposed vehicular entrance onto the public road.

4.8 Final Planning Report for Planning Authority

- This report, dated 23rd November, 2015 included noting the relevant provisions in the Louth County Development Plan: *'Louth County Development Plan 2015-2021*
Since the assessment of the initial application for this development the new Louth County Development Plan has come into effect. It is therefore required that the application is assessed in accordance with the policies contained therein.

Rural Housing Policy

The application site is located within Zone 3 of the 2015-2021 CDP. Policy RD 29 states as follows *'To apply a presumption in favour of granting planning permissions to bone-fide applicants for rural generated housing where the qualifying criteria set down in Chapter 2 are met and where standards in relation to, inter alia, siting, design, drainage and traffic safety set down in the Louth County Development Plan 2015-2021 are achieved'*.

- The Final Planning Report noted as follows:
'It is submitted that the applicant currently lives in Belfast and has never owned a house in County Louth. However no documentation has been submitted to show that the applicant has a rural housing need as required by Policy SS 18 and Section 2.19.1. In addition, the land registry certificate states that the holding extends to 0.656 hectares. The new County Development Plan defines a landowner as 'a person who has owned a landholding of at least 3 hectares for a minimum of ten years'. It would appear from the documentation submitted that this landholding does not extend to 3 hectares.' and also
'On the basis of the documentation submitted on file it would appear
 - The applicant does not have a rural generated housing need and has never resided in the rural area.
 - The landholding from which the site is being disposed of does not come within the definition as set out in the 2015-2021 County Development Plan for the purposes of the applicant being a son of a qualifying landowner [the holding is less than 3 hectares and has not been in the ownership of his father for a period of ten years or more].'
- Refusal of outline permission was recommended for the Reasons and Considerations as stated in the notification of decision of the Planning Authority.

4.9 Notification of Decision of Planning Authority

The Planning Authority, Louth County Council, issued a notification of decision to **REFUSE OUTLINE PERMISSION** for the proposed development for Reasons and Considerations (1) as follows:

1. The proposed development is located within Zone 3 of the Louth County Development Plan 2015-2021. It would appear from the documentation submitted on file that the applicant does not come

within the scope of the qualifying criteria as set out in Section 2.19.1 of the County Development Plan and as such the proposed development is contrary to Policy RD 29 and Policy SS 18 of the Louth County Development Plan 2015-2021 and is contrary to the proper planning and sustainable development of the area.

5. APPEAL GROUNDS

First Party Appeal

- The First Party Appeal Grounds included noting that the refusal decision of the Planning Authority included stating that ‘the applicant fails to demonstrate how he comes under the scope of the qualifying criteria as set out in Section 2.19.1 of the County Development Plan 2015-2021. As such it is held that the proposed development is contrary to Policy RD 29 and Policy SS 18 of the said Development Plan.’, and also
- ‘The planning application was lodged on the 21st July, 2015 under the timeframe covered by the Development Plan 2009-2015. The Draft Development Plan 2009-2015 was published in October, 2014. On the 19th February I, on behalf of my client met with representatives of Louth County Council to discuss the specific case of Charles MacCreanor and his desire to return to his family landholding with a view to residing there. The land had been in his family’s ownership for over 100 years and is currently in the ownership of Patrick MacCreanor, his father, who is in deteriorating health.’
- The First Party Appeal Grounds also submitted that noting
‘(a) The long history of ownership (+100 years), and
(b) the benevolent contributions made by the family toward the education of the local children.....
Our understanding was that (a) above established local qualification (b) related to establishing a valid rural housing need by demonstrating a strong and legitimate connection to the life of the local area.’
- It was also submitted in regard to the Great Northern Greenway that ‘the MacCreanors were avid supporters of and demonstrated as much by signing a permissive agreement with LCC to allow the greenway to travel through their lands.’

6. APPEAL RESPONSES

6.1 Appeal Observation

No Appeal Observation was received.

6.2 Planning Authority Appeal Response

- This Appeal Response received 1st February, 2016 included:
‘The application was originally assessed under the 2009-2015 County Development Plan and it was determined that further information was required in order to independently document that the applicant complied with Section 4.6.2 of the 2009-2015 Plan which relates to the rural housing policy. This was requested in August, 2015 at a time when the new draft County Development Plan 20150-2021 had already been on public display. However there was, at that time, no way of ascertaining what date the new plan would come into force and as such due regard was (not) had to the forthcoming policy in the assessment of this application.’
- ‘However the further information was received by the Planning Authority on 5th November, 2015 by which stage the new plan had been adopted and come into effect. The rural housing policy set out therein was more stringent with regard to the qualifying criteria for development of a one-off dwelling in the rural area and no documentation was submitted to indicate that the applicant has a rural generated housing need. Indeed even the appeal statement fails to outline clearly what the applicant rural generated housing need is other than his family have been landowners in the area for a long time and have been supportive of rural development in the area. No information detailing that the applicant has ever actually resided in this immediate rural area, or any rural area for that case has been submitted. Furthermore, the definition of a landholding was also revised in the new plan and the documents submitted on file show that the landholding is less than 3 hectares.’

7. PLANNING HISTORY

The Planning Report for the Planning Authority stated that there was no Planning History of the subject site/area.

8. DEVELOPMENT PLAN

- The provisions of the 2015-2021 Louth County Development Plan have been considered, and in particular the provisions which are attached in **Appendix C – Development Plan**. The application site is located within Development Zone 3: ‘To protect the recreational and amenity value of the coast’ as indicated on Map 3.1 – ‘Development Zones’ in the Development Plan.
- *Policy RD 29 – ‘To apply a presumption in favour of granting planning permissions to bone-fide applicants for rural generated housing where the qualifying criteria set down in Chapter 2 are met and where standards in relation to, inter alia, siting, design, drainage and traffic safety set down in the Louth County Development Plan 2015-2021 are achieved.’*
- *Policy SS 18 – ‘To permit rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside, subject to the local needs qualifying criteria as set out in Section 2.19.1 below.’*
- Section 2.19.1 – ‘Local Needs Qualifying Criteria’ in regard to Development Zone 3 as follows:
 1. Applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the county for a minimum of 5 years prior to making an application.

Or
 2. That the applicant(s) have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the county for a minimum of 5 years prior to making an application.

Or
 3. That the applicant is actively and significantly involved in agriculture and that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full-time or significant part-time occupation. Where the applicant is employed in a part time basis, the predominant occupation shall be agriculture. In all cases, supporting documentation outlining that the nature of the activity is sufficient to support full-time or significant part-time work

shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that agricultural enterprise.

Or

4. That the applicant is actively and significantly involved in the bloodstock and equine industry, forestry, agri-tourism or horticulture sectors or rural based enterprise, that the nature of the activity is sufficient to support full-time or significant part-time occupation and that the applicant can demonstrate a specific functional need to live at the site of their work. Where the applicant is employed in a part-time basis, the predominant occupation shall be in the bloodstock and equine industry, forestry, agri-tourism or horticulture sectors or rural based enterprise. In such cases supporting documentation outlining that the nature of the activity is sufficient to support full-time or significant part-time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that enterprise.

Or

5. That the applicant is providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them. One house only will be allowed on this basis and the site must be adjacent to the dwelling in which the older person(s) or person(s) with the disability resides.'

- Policy SS 19 – *'To require that applicants for one-off rural housing demonstrate compliance with the Local Needs Qualifying Criteria relevant to the respective Development Zone as set out in Section 2.19.1 above.'*
- Policy RD 35 – *'To only permit development that would not be detrimental to the visual and recreational amenities of the coast. Such development would include limited one-off housing*.....
* Refer to Section 2.19.1 for Qualifying Criteria'*
- The Sustainable Rural Housing – Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in 2005 are noted.

9. PLANNING ASSESSMENT – Issues and Evaluation

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

Proposed Development and First Party Appeal Grounds

- The subject site lands at Ballyoonan, Omeath, County Louth are approximately 0.92 hectares in area as submitted and are located on the seaward side of the Carlingford – Omeath Road (R173) approximately one kilometre to the south of Omeath Village.
- The Planning Report for the Planning Authority described the site: ‘The site is essentially a small agricultural field, enclosed on 3 sides by mature trees and on the other side by the new Greenway public walk, and the trees along the coast. There is a fence along the Greenway boundary with the site. There is an existing mature roadside hedgerow and stone wall to the front of the site along the roadside. The site is higher at the southern end, where the dwelling is proposed. Adjacent to the site to the south-east is a popular public shrine or grotto.’
- The proposed development comprises as specified in the Public Notices: Outline Permission for 1 no. single-storey dwellinghouse along with garage, wastewater treatment system and all associated site works, at Ballyoonan, Omeath, County Louth.
- The proposed single-storey dwelling to a specified floor area of 220 square metres would be served by a proposed proprietary wastewater treatment system and private well. A detached garage adjacent to the proposed dwelling and a vehicular entrance off the Carlingford – Omeath Road (R173) are also proposed.
- I note the *Environment Section Report* and the *Infrastructure Section Report* on the *Further Information Submission received on 5th November, 2015* – which Reports considered respectively that the proposed development as revised subject to conditions was acceptable from a public health viewpoint, and would provide adequate sightlines at the proposed vehicular entrance onto the public road.

- The *Final Planning Report for the Planning Authority* included:
'Louth County Development Plan 2015-2021
'Since the assessment of the initial application for this development the new Louth County Development Plan has come into effect. It is therefore required that the application is assessed in accordance with the policies contained therein.' and also
'It is submitted that the applicant currently lives in Belfast and has never owned a house in County Louth. However no documentation has been submitted to show that the applicant has a rural housing need as required by Policy SS 18 and Section 2.19.1. In addition, the land registry certificate states that the holding extends to 0.656 hectares. The new County Development Plan defines a landowner as 'a person who has owned a landholding of at least 3 hectares for a minimum of ten years'. It would appear from the documentation submitted that this landholding does not extend to 3 hectares.'
- The Planning Authority, Louth County Council, issued a notification of decision to **REFUSE OUTLINE PERMISSION** for the proposed development for Reasons and Considerations (1) as follows:
 1. The proposed development is located within Zone 3 of the Louth County Development Plan 2015-2021. It would appear from the documentation submitted on file that the applicant does not come within the scope of the qualifying criteria as set out in Section 2.19.1 of the County Development Plan and as such the proposed development is contrary to Policy RD 29 and Policy SS 18 of the Louth County Development Plan 2015-2021 and is contrary to the proper planning and sustainable development of the area.
- The *First Party Appeal Grounds* included stating that 'the planning application was lodged on the 21st July, 2015 under the timeframe covered by the Development Plan 2009-2015. The Draft Development Plan 2009-2015 was published in October, 2014'.
 The Appeal Grounds also submitted that noting
 '(a) The long history of ownership (+100 years), and
 (b) the benevolent contributions made by the family toward the education of the local children.....
 Our understanding was that (a) above established local qualification (b) related to establishing a valid rural housing need by demonstrating a strong and legitimate connection to the life of the local area.'

- The *Planning Authority Appeal Response* included stating that ‘the further information was received by the Planning Authority on 5th November, 2015 by which stage the new plan had been adopted and come into effect. The rural housing policy set out therein was more stringent with regard to the qualifying criteria for development of a one-off dwelling in the rural area and no documentation was submitted to indicate that the applicant has a rural generated housing need.’
- The provisions of the 2015-2021 Louth County Development Plan which were in effect at the date of the notification of decision of the Planning Authority, are the relevant provisions to be considered in the determination of this appeal.
- *Map 3.1 – ‘Development Zones’ in the 2015-2021 Louth County Development Plan* indicates that the subject site is located within Development Zone 3 – ‘To protect the recreational and amenity value of the coast’ as designated under the Development Plan.
- Section 2.19.1 – ‘Local Needs Qualifying Criteria’ in regard to Development Zone 3, and Policy SS 18 under Section 2.19 – ‘One-Off Rural Housing Policy’ in the 2015-2021 Louth County Development Plan, set out the requirements for applicants for rural housing under the Rural Housing Policy in the 2015-2021 Louth County Development Plan which is now in effect.
- Policy SS 18 in the Development Plan states as follows:
‘To permit rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside, subject to the local needs qualifying criteria as set out in *Section 2.19.1* below.’
- I have reviewed the ‘*Local Needs Qualifying Criteria Nos. 1 to 5*’ as included in Appendix C above of this report in regard to *Development Zone 3* and it is evident that the applicant does not qualify under the stated ‘Local Needs Qualifying Criteria’.
- On this matter I concur with the Planning Authority Appeal Response where stated that ‘the appeal statement fails to outline clearly what the applicant rural generated housing need is other than his family have been landowners in the area for a long time and have been supportive of rural development in the area. No information detailing that the applicant has ever actually resided in

this immediate rural area, or any rural area for that case has been submitted.'

- In this regard I note that Section 2.19.1 '*Local Needs Qualifying Criteria*' in the 2015-2021 Louth County Development Plan states: 'In order to protect the rural areas of the County from excessive urban generated housing, the Council considers it necessary to retain the local needs provision as recommended in the document *Sustainable Rural Housing Guidelines, 2005 DECLG*. Local needs provisions apply across the entire rural area of the County. *Applicants for one-off rural housing will be required to demonstrate compliance with criteria relevant to the specific Development Zone in which the dwelling is to be located.* These Local Needs Qualifying Criteria are as outlined below.' (Italics added)
- I note also that Policy SS 19 in the Development Plan states: '*To require that applicants for one-off rural housing demonstrate compliance with the Local Needs Qualifying Criteria relevant to the respective Development Zone as set out in Section 2.19.1 above.*'
- I note further that Policy RD 35 in the Development Plan states in regard to Development Zone 3 alongside the coastline of County Louth wherein the subject site is located:-
'To only permit development that would not be detrimental to the visual and recreational amenities of the coast. Such development would include limited one-off housing*.....
* *Refer to Section 2.19.1 for Qualifying Criteria*'
- In my opinion the proposed 'one-off rural housing' development of a dwelling in close proximity to the Omeath/Carlingford Greenway alongside the Carlingford Shore SAC (Site Code 002306) which traverses the subject site as indicated on the submitted revised Site Layout Plan drawing, would seriously detract from the amenity of the Greenway and would be 'detrimental to the visual and recreational amenities of the coast'.
- Policy RD 35 in the Development Plan specifies that any 'one-off housing' to be considered which 'would not be detrimental to the visual and recreational amenities of the coast' within Development Zone 3, should meet the Qualifying Criteria in Section 2.19.1 for rural housing in Development Zone 3 which the proposed development does not, and the proposed development would therefore contravene Policy RD 35 in the Development Plan.

Appropriate Assessment

- The Planning Report for the Planning Authority stated as follows:

'Natura 2000 Sites

The site is located adjacent to Carlingford Shore SAC and Carlingford Louth pNHA. An Appropriate Assessment Screening Matrix has been carried out for the proposed development. This matrix has been attached to the end of this report. It shows that the development will not impact upon any of the SAC's or pNHA's within 15 kilometres of the application site and as such, an Appropriate Assessment is not required.'

- Having regard to the nature and scale of the proposed development, I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

10. CONCLUSIONS AND RECOMMENDATION

In conclusion, further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area, having regard to the relevant provisions of the 2015-2021 Louth County Development Plan which are considered reasonable. Accordingly, I recommend that outline permission be refused for the proposed development for the Reasons and Considerations stated in the Schedule below.

DECISION

REFUSE outline permission for the proposed development for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

1. The proposed development is located within Development Zone 3 – ‘To protect the recreational and amenity value of the coast’ as designated under the Louth County Development Plan 2015-2021. The documentation submitted on file indicates that the applicant does not come within the scope of the qualifying criteria for rural housing applicants within Development Zone 3 as set out in Section 2.19.1 of the Development Plan. The proposed development of a dwelling in this rural coastal location would contravene Policy SS 18 and Policy SS 19 and Policy RD 35 of the Louth County Development Plan 2015-2021 and would, therefore, be contrary to the proper planning and sustainable development of the area.

DERMOT KELLY
SENIOR PLANNING INSPECTOR

6th April, 2016.

sg

APPENDIX A - LOCATION MAP
APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)
APPENDIX C - DEVELOPMENT PLAN