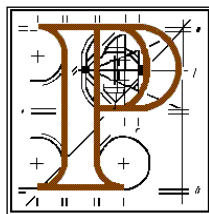


An Bord Pleanála Ref.: PL17.246257

An Bord Pleanála



Inspector's Report

Development

Construction of dwelling and new entrance onto public road at Lougher, Duleek, Co. Meath

Planning Application

Planning Authority: Meath County Council
Planning Authority Reg. Ref.: LB\150994
Applicant: Suzanne Leonard-Jamal

Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Robert and Christina McCloskey
Type of Appeal: 3rd Party
Observers: None
Date of Site Inspection: 30th May 2016
Inspector: Fiona Fair
Appendices: Site Location Map & Photographs
Excerpts from the Meath CDP 2013 - 2019

1.0 SITE DESCRIPTION

The appeal site, which has a stated area of 0.259 ha, is located on the northern side of a local county road in rural Lougher, which is situated approx. 4.5 Km west of Duleek town in County Meath. Navan is located approx. 15 Km to the west and Drogheda is located some 10Km to the northeast

The appeal site, which is relatively flat, is currently in agricultural use. A grass verge is present along the road frontage (south) with a drainage ditch and thick hedgerow. The eastern and western boundaries are defined by a post and wire fence and the northern boundary is undefined. There are houses on both sides to the east and west, comprising dormer bungalows.

The site has road frontage with the local road of some 17.2m. An area of ground, located directly to the front / south of the appeal site, approx. 30 m x 15m is within the ownership of the neighbouring dwelling to the east. The driveway and entrance / egress to the adjoining dwelling is situated to the front of the dwelling proposed on foot of the subject permission.

There are three number dwellings with access points located within a 150m road frontage. The local road is narrow with ditches on both side, while the road alignment is relatively straight along the appeal site frontage, its vertical and horizontal alignment is poor along its route from Duleek Village. Which I note is peppered with one-off rural housing

2.0 PROPOSAL:

The subject development comprises Permission for:

- Construction of a storey & a half style dwelling (7.5m in height with a stated GFA of 179 sq. m)
- Detached domestic garage, (GFA stated as 37 sq. m)
- Install a Proprietary Sewage Treatment System
- Form new entrance from public road

The application was accompanied with:

- Site Characterisation and Assessment - Dated August 2015
- Separation Agreement
- Letter from Fabian Cadden & Co. Solicitor
- Letter from Martin Lynch stating that the applicant and her two children reside in his 'home' in Lougher, Duleek, Co. Meath, 'with a temporary mutual agreement in place since 2012 on a month to month basis'.
- Letter from the applicant, Suzanne Leonard Jamal stating:
 - She has resided in Co. Meath for the last 17 years having moved from Monaghan to Dunshaughlin in 1999
 - She resided in Flemington, Balrath Naval from 2002 – 2009
 - Rented a home in Slane on a temporary basis after a separation
 - She has lived in private rented accommodation for 7 years
 - Her children (age 11 and 9 years) are settled in the community and attend school locally
 - They are members of Kentstown Rovers FC and have many friends in the area, heavily involved in the community and a member of Kentstown village park committee since 2008 and Kentstown Tidy Towns Committee
 - The proposed dwelling is adjacent to the house currently rented from Martin Lynch and is located 1Km from the school (Scoil Naoimh Pio, Knockcommon, Co. Meath).
 - The proposed site is 2.5miles from Flemington Balrath
- Local Needs form which states:
 - The applicant has rented at the following addresses:
 - Flemington Balrath from 2002 – 2009
 - The Courtyard Slane Meath 2009 – 2012
 - Lougher Duleek 2012 – present
 - She has lived in the area for 14 years
 - The applicant is an administrator officer with Tusla
 - Place of work is stated as Brunel Building D8 – 20 miles from current rented residence.
 - She does not own a property and has never sold a property.

- Copies of various documentation, relating to the applicants local need indicating proof of address at Lougher Duleek, Co. Meath Including:
 - Utility bills 2015 Lougher Duleek,
 - Utility bill 2009 The Courtyard Slane
 - Letter of support for Councillor Suzanne Jamal from Kentstown Tidy Town Committee
 - Letter of support Councillor Suzanne Jamal from Kentstown Village Park Committee
 - Letter from Scoil Naoimh Pio, Knockcommon, Co. Meath confirming children's attendance
 - Letter of support for Suzanne Jamal from Kentstown Rovers FC
- Letter of consent from the owner of the lands- Jim Tully

3.0 PLANNING AUTHORITY'S DECISION

The initial planners report dated 12/11/15 recommended a refusal of permission for 2 no. reasons, summarised as follows:

1. The appeal site is located in a rural area outside any designated settlement and in a Rural Area under Strong Urban influence. The applicant has not established a site specific rural generated housing need for a dwelling at this location. Proposal contrary to policy of the sustainable Rural Housing guidelines and the Meath County Development Plan.
2. Having regard to the planning history pertaining to the landholding from which the application site has been taken and the level of speculative sales of individual sites from that landholding. It is considered the proposed development would constitute over development of that landholding which would be contrary to MCDP policy

Following a memo dated 12/11/15 from Michael Griffin SEO Planning a request for further information with respect to (i) applicant to substantiate tenancy and residency at Lougher, map illustrating the location of the proposed residence and former family home, address the degree of existing

development on the original landholding and address the content of the 3rd party submission was sought.

Meath County Council subsequently Granted Planning Permission subject to 17 no. conditions.

Condition no. 6 restricts occupancy of the dwelling to the applicant for a period of at least 7 years.

4.0 TECHNICAL REPORTS

4.1 Planners report:

The initial planners report on file recommends refusal. Following a direction from the SEO Planning a request for further information was sought and following receipt of the further information a subsequent direction was made on the 08/02/16 by the SEO that planning permission be granted.

The Direction to prepare a schedule of conditions, dated the 08.02.2016, is summarised as follows:

- Satisfied on the basis of information submitted that the applicant has no interest in the former family home at Flemington
- The site at Lougher is located 2 – 3 Km from the former family home and therefore complies with policy on local need criteria
- The applicant fulfils the criterion being *‘a person who has spent substantial periods of their lives, living in a rural area as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside.’*
- Notwithstanding that the applicant sought temporary rented accommodation in Slane immediately following the separation for stated reasons the applicant has lived in the rural area in excess of 5 year period and does not own a dwelling she can reside in.

- The applicant has submitted a map detailing the planning history associated with the landholding. It appears that 3 sites have been sold to siblings of the Lynch family of Lougher. Their family home is approx. to the landholding.
- The proposal does not constitute or contribute to ribbon development
- The site is a gap / infill site and will not erode the visual amenity of the area
- There are no traffic safety issues
- Notes the 3rd party objection

4.2 Objections / Submissions

- An objection was received. The issues raised are similar to those raised in the third party appeal, summarised below.

5.0 APPEAL GROUNDS

5.1 A third party appeal has been lodged by Robert and Christina McCloskey, Lougher, Duleek, Co. Meath. The grounds of appeal are summarised as follows:

- The applicant currently owns a dwelling at Flemington, Balrath since 2009 and continues to do so whilst during her separation
- Land registry document confirms the applicants liability, interest and entitlement to the dwelling at Flemington
- The applicants address on the electoral roll and public correspondence is Flemington Balrath
- The applicant is not local to the area and resided in Slane within the last 5 years
- The applicants tenancy agreement is not registered with the PRTB
- Cannot comment on any separation agreement or whither it is an official legally court binding separation agreement.
- Landscape plan proposed is unacceptable
- Negative impact from overlooking

- The entrance, driveway and front garden of the appellants overlooks / looks into the front windows of the proposed dwelling.
- Entrance is close to a dangerous hill and bend in the road
- Sightlines of 120m are not achievable for the speed limit of the road
- 2 storey design is out of keeping with the established adjoining dwellings
- The landowner Jim Tully has sold 5 sites off a small landholding – speculative development in a rural area.
- The applicant's involvement in the community is mainly in Kentstown Village which is situated 5 Km distant.
- The applicant works 20 miles from Lougher.
- Local need in accordance with CDP policy has not been established
- Appeal accompanied with:
 - Notification of decision to grant planning permission Lb150994
 - Letters / emails from Private Residential Tenancy Board (PRTB),
 - Land Registry details Folio 6630F
 - On – line information that Suzanne Jamal is a local Fine Gael Councillor for Ashbourne with her address stated as Rahmat, Flemington, Balrath, Navan, Co. Meath
 - Facebook information which states that Suzanne has an address at Balrath, Meath
 - Details of Navan Area Councillors which states that Suzanne has an address at Balrath, Meath
 - Electoral Roll dated March 29th 2011 indicating that Suzanne has an address at Flemington, Balrath, Navan, Co Meath
 - LAMA – Local Authorities Members Association information indicating address of the applicant as Flemington, Balrath, Navan, Co Meath
 - On line, Meath County Council, contact details, for a Navan Area Councillor which indicates Councillor Suzanne Jamal's address as Flemington, Balrath, Navan, Co Meath, dated 2012.

6.0 RESPONSES

6.1 Planning Authority response summarised as follows:

- Refers the Board to the planners report and all reports, directions and memo's on the file.
- A technical report addressing sightlines is appended.

6.2 A response was received from Suzanne Leonard-Jamal. It is summarised as follows:

- The applicant's husband Dr. Jamal is a medical practitioner who specialises in emergency medicine as an A&E consultant. He resides in the family home at Flemington as the location specifically meets the need of responding to emergencies.
- The applicant has been elected as a Councillor twice and serves both rural and urban locations. There is a rural dimension to her work as a local councillor.
- Separation agreement attached indicates that the applicant has surrendered her interest in the former family dwelling.
- Applicant seeks to maintain her own and her children's links to the local area where she resides and which is home to her children.
- Desire to reside close to where children attend school
- Impact upon the appellant's house has been mitigated by way of 22m set back with the appellant's side boundary, no first floor windows proposed overlooking the appellant's property, consent to any condition which requires obscure glazing in the utility room.
- The sightlines are better than available sightlines to the appellants own house.
- The alignment of the road serves to limit traffic speeds
- The appellants sought and obtained retention permission for a first floor of accommodation (Dormer type windows) which makes their house functionally a house of two floors.
- Proposed landscaping is adequate to assimilate the proposed dwelling into the site.

- Submit a report from Auctioneer who contends that the proposed house will not have a negative impact upon neighbouring house.
- The proposed dwelling will not impact on the lighting, amenity, or privacy of the neighbouring dwellings.
- Applicant's two sons are deeply integrated into the community where they were born and schooled. They are members of Kentstown FC.
- The site at Lougher was determined by the availability of sites generally, their cost and proximity to the boys home and school.

7.0 PLANNING HISTORY

None on the appeal site itself however the following is noted on the landholding from which the application site was taken:

To the west of the application site:

SA/50364 Permission Granted to Martin Lynch for erection of a single storey dwelling house septic tank, puraflow effluent treatment unit, percolation area and entrance. The planners report on this application noted that: 'Given the modest scale of the land holding from which the application site is taken, the PA consider that further residential development should be restricted on the Tully holding.'

SA/50100 Permission granted to Anthony Lynch for erection of a single storey dwelling house, septic tank, puraflow effluent treatment system, percolation area, entrance with revised site boundaries from that granted under Reg. Ref. 01/4415

Reg. Ref. 01/4415 Permission was granted to Gwen Lynch for change of house design from that granted under planning permission Ref. 01/4174

Reg. Ref. 01/4174 Permission Granted to Gwen Lynch for erection of a single storey dwelling house, septic tank, puraflo effluent treatment unit, percolation area and entrance.

Reg. Ref. 00/4058 Permission Refused to Ronan Smith for dormer bungalow, new entrance and installation of biocycle treatment unit.

Reg. Ref. 00/574 Permission Refused to Ronan Smith for dormer bungalow, new entrance and installation of biocycle treatment unit.

To the East of the Application Site.

Reg. Ref. SA/130882 Permission granted to Christina Lynch for (1) retention of an attic conversion to living accommodation, incorporating dormer windows, gable window, roof lights and minor elevation changes (2) retention for as constructed domestic garage

Reg. Ref. SA/800625 Permission Granted to Christina Lynch for construction of a new dwelling, proprietary wastewater treatment unit, percolation area and new site entrance.

Reg. Ref. SA/70625 Permission Refused to Christina Lynch for construction of a new dwelling, proprietary wastewater treatment unit, percolation area and new site entrance.

Reg. Ref. SA/70484 Permission Refused to Christina Lynch for construction of a new dwelling, proprietary wastewater treatment unit, percolation area and new site entrance.

8.0 NATIONAL POLICY / GUIDELINES:

8.1 Sustainable Rural Housing Guidelines 2005

The Sustainable Rural Housing Guidelines 2005 set out implementation guidelines for Planning Authorities in respect of rural housing having regard to the National Spatial Strategy's overall development framework.

The Guidelines advocate the identification of types of rural areas, such that clear Development Plan policies in respect of rural housing can be formulated. The subject site would be most akin to the '*Rural Areas under Strong Urban Influence*' type as per Section 3.2 of the Guidelines. Appendix 3 of the Guidelines states that, in respect of rural areas designated as being under strong urban influence, policies should be formulated such that the housing requirements of the rural community are catered for, whilst urban generated development should be directed into zoned settlement areas of towns, cities and villages. Furthermore, the Guidelines advocate that clear criteria be included in the Development Plan in respect of how the Planning Authority will assess rural housing proposals.

9.0 LOCAL POLICY

Chapter 7 Water, Drainage and Environmental Services

Section 10.2 'Rural Settlement Strategy'

Policy RUR DEV SP 2, applications for individual house development in the rural areas must 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 also have regard to other policies and objectives in the Development Plan.

- **Section 10.3** 'local housing need' - the appeal site is located within Area 1: 'Rural Areas under Strong Urban Influence'
- **Section 10.4** Persons who are an intrinsic part of the Rural Community
- **Section 10.5** Development Assessment Criteria
- **Section 10.7** Design and Siting Considerations

RD POL 1 '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'

RD POL 3 'To protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development and to maintain the identity of these urban centres.'

Chapter 11 Development Management Guidelines and Standards

Appendix 15 Rural Design Guide

10.0 ASSESSMENT

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. In my judgement the principle factors for consideration in this appeal relate to:

10.1 Compliance with Meath County Council Rural Housing Policy

10.2 Design, Layout and Ribbon Development

10.3 Appropriate Assessment (AA)

10.1 Compliance with Rural Housing Policy

The site is located in a rural area under Strong Urban Influence as per the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, and the key development plan policies in these areas is *'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.'* I note that the site is identified as being a 'Rural Area under strong urban influence' on Map 10.1 – 'Rural Area Types Development Pressure' of the current Meath County Development Plan 2013 - 2019.

The First Party submits that she complies with section 10.4 of the Meath County Development Plan 2013 – 2019 relating to local housing need, being a person who has spent a substantial period of her life living in the rural area.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I do not believe that the applicants particular circumstances are catered for within the rural housing policy set out in the Meath County Development Plan 2013 – 2019 (CDP). I am of the opinion that the reasons given for the family vacating the family residence at Flemington and need for an additional residence in the rural area of Lougher has not been substantiated. The small town of Duleek and the village of Kentstown (as designated in Table 2.1 County Meath Urban Settlement Hierarchy) are approximate to the location of the family home at Flemington and Lougher [REDACTED]. Involvement in activities in Kentstown and the local community of Kentstown would not substantiate the need to reside in the rural area of Lougher.

In addition, I am of the opinion that the applicants does not comply with section 10.5.1 'Development Assessment Criteria', which reproduces the advice of the Sustainable Rural Housing Guidelines. It states that Meath

County Council will take into account the following matters in assessing individual proposals for one off rural housing.

- *'The housing need background of the applicant(s) in terms of employment, strong social links to rural areas and immediate family as defined in Section 10.4 Persons who are an Intrinsic Part of the Rural Community;*
- *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. Where there is a history of individual residential development on the landholding through the speculative sale of sites, permission may be refused;*
- *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'.*

Based on the information submitted and having carried out a planning history search within the landholding of the owner of the appeal lands (James / Jim Tully), it would appear that the landholding accommodates the house of the landowner and 3 no. additional dwellings. Permission has been granted for 3 dwellings on the land holding, to non-family members, since early 2000's. Two dwellings have been constructed to the west and one dormer dwelling is located directly to the east of the subject appeal site. If permitted the appeal dwelling would give rise to 5 number rural dwellings on the overall Tully landholding which I agree with the planning authority is modest in scale. I note that concern was expressed in the assessment of SA/800265 (decision dated May 2008) regarding the level of development on the landholding.

Given the level of speculative development on this landholding and along this local country road generally and having cognisance that the application site is located in a rural area under strong urban influence, I am firmly of the opinion that the proposal would not comply with section 10.5.1 of the CDP or the Sustainable Rural Housing Guidelines.

Overall it is my opinion that the current County Development Plan and the Rural Housing Guidelines do not allow for a positive presumption for the applicants case type.

10.2 Design, Layout and Ribbon Development

Design

It is considered that the traditional design of the proposed dwelling, incorporating a full gable roof with a ridge height of 7.5m, is acceptable in principle and is in line with the Meath Rural Housing Design Guide. No windows are proposed at first floor level to the side elevations (east and west). I note that this presents a similar situation to that which exists between the two dormer bungalows to the east and west of the appeal site.

Layout

The position in respect of the building line is considered acceptable as the proposed dwelling is set back in line with adjoining dwellings. While it is not considered that the proposed dwelling would impact upon residential amenities enjoyed by the adjoining dwellings in terms of overshadowing, overlooking or overbearing, I have concern with respect to negative residential impacts from the layout of the neighbouring dwelling to the east on the proposed dwelling.

The proposed new entrance is planned to the east of an existing farm entrance. The entrance if permitted would give rise to the third residential entrance within a 40 m road frontage. The existing county road is extremely narrow, however, from observations made during my site visit and from information contained on the file I am of the opinion that adequate sightlines could be achieved. I have concern, however, with respect to multiplicity of entrances at this location and the layout of the driveway and access of the dwelling to the east which encroaches across the front of the appeal site.

While the dwelling to the east was permitted closer to the humpback bridge over the train line, a long curved driveway and access was positioned some 40 / 50 m (from the front of the dwelling) to its west. It is considered that the configuration of the adjoining entrance is related to the presence of the narrow humpback bridge (over a train line), located on a corner, approx. 150 m to the east of the appeal site's proposed access.

The neighbouring driveway runs to the front of the proposed dwelling and the access is located directly facing the front of the proposed dwelling. I tend to agree with the appellant this is not a desirable situation. It may lead to annoyance from infringement of privacy, vehicular noise and nuisance from car head lights to the proposed dwelling thus impacting negatively on residential amenity its future occupants.

Ribbon Development

The CDP addresses this matter and in doing so reproduces the advice of the Sustainable Rural Housing Guidelines, in which, *'ribbon development is considered to be a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250m of road frontage'*. The CDP sets out that whether existing ribbon development would be exacerbated needs to be considered under the following headings:

- The type of rural area and circumstances of the applicant,
- The degree to which the proposal might be considered infill development, and
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.

The appeal site lies on the northern side of the local county road. To the west on the same side of this road lie 2 dwelling houses and to the east lies one existing dwelling house, within a 160m frontage. Thus, the proposed dwelling house would represent the addition of a fourth dwelling house within a 160m frontage. Therefore while the proposal would not give rise to ribbon development, as prescribed in the Guidelines and hence the CDP, it is my opinion that taken in conjunction with existing and permitted development in the area, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and served by a poor road network. It is an objective of the planning authority, as expressed in the current Development Plan for the area, to channel housing into "rural settlements". This objective is considered reasonable. It is considered that the proposed development would constitute urban generated housing, would contravene the objective of the planning authority and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

10.3 Appropriate Assessment (AA)

The proposed dwelling house would be served by mains water supply and a proprietary waste water treatment system and percolation area.

The appeal site is not within or adjoining any Natura 2000 site. There are a number of Natura 2000 sites situated within an approx. 15 Km distance of the appeal site.

- River Boyne and River Blackwater SPA and SAC designated for alkaline fen and alluvial woodlands and the following species: Atlantic Salmon, Otter, River Lamprey and Kingfisher.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, proximity to the nearest European site and absence of a direct pathway from the site to the Natura 2000 site, 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 a European site.

11.0 CONCLUSION AND RECOMMENDATIONS

I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In the light of this and the assessment above, I recommend that planning permission be Refused for the Reasons set out below.

12.0 REASONS AND CONSIDERATIONS

1. Having regard to the location of the site within a Rural 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 the current Meath Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed

development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and 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. Taken in conjunction with existing and permitted development in the area, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and served by a poor road network. It is an objective of the planning authority, as expressed in the current Development Plan for the area, to channel housing into "rural settlements". This objective is considered reasonable. It is considered that the proposed development would constitute urban generated housing, would contravene the objective of the planning authority and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Fiona Fair
Planning Inspector
07.06. 2016