



An  
Bord  
Pleanála

## Inspector's Report

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<b>Development</b>	House, garage, wastewater treatment unit and associated site works at Mooretown, Rathoath, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	RA 160110
<b>Applicant</b>	Adrian McCullagh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Appellants</b>	Michael & Karen Kelly
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Observer(s)</b>	None
<b>Inspector</b>	Pauline Fitzpatrick
<b>Date of Site Inspection</b>	03/08/16

## 1.0 SITE LOCATION AND DESCRIPTION

The site, which has stated area of 0.45535 hectares, is in the townland of Mooreland c. 2.5km south-east of Dunshaughlin and 3.5 km south-west of Ratoath. It is accessed from local road L50459 along which the 80 kph speed limit applies. There are drains to either side of the carriageway which are culverted at site entrances. The general area is characterised by a material level of one off housing on both sides of the road of varying single, dormer and two storey designs.

The site is irregular in shape with a small protrusion onto the bend in the road to the north at which there is a gated field access. It is marginally higher than the road with the roadside boundary delineated by a hedgerow. The site shares an access with a single storey dwelling immediately to the south. A hard standing area was noted immediately inside the existing access. An old water pump is also located along the road frontage. The boundary with the dwelling to the south is delineated by a fence backed with planting whilst the northern boundary is delineated by a line of high coniferous trees. The appellants' dwelling backs onto the site to the north. The western boundary is delineated by a hedgerow.

## 2.0 PROPOSED DEVELOPMENT

The proposal is for a 168 sq.m. single storey dwelling served by a wastewater treatment plant. Water supply is to be via public mains. The applicant is the father of the adjoining houseowner and has resided at his son's dwelling since 2011. The family home in Cabinhill Rathoath has been sold as part of divorce proceedings.

The application is accompanied by:

- Planning Statement (Arborist Assessment attached as appendix).
- Soil Characterisation and Site Suitability Assessment Report which records a T value of 64.08 and P value of 46.5. Groundwater was encountered in the trial hole at a depth of 1.90m although it is noted that winter groundwater was in evidence up to a depth of 1.20. A purpose built soil polishing filter is to be constructed to ensure that there is a minimum of 0.90m of suitable percolating

material between the base of the lowest part of the polishing filter and the winter groundwater level.

- Hydrological Assessment report which concurs with the recommendations of the Site Characterisation Form. Three wells are identified within 250 metres of the proposed polishing filter with the disused water pump 50 metres away.
- Architectural Assessment
- Proposed Site Access Assessment
- Details in support of applicant's claim as to rural generated housing need.

**Note:** An objection to the application received by the planning authority has been forwarded to the Board and is on file for its information. The issues raised are comparable to those set out in the 3<sup>rd</sup> party appeal summarised in section 5 below. A submission in favour of the proposal is also noted.

### 3.0 TECHNICAL REPORTS

**Irish Water** in a report dated 10/03/16 has no objection subject to conditions.

The **Senior Executive Engineer, Road Design** in a report dated **30/03/16** considers that the application should be refused due to over intensification of development on the narrow road. Should permission be granted a schedule of conditions is detailed.

The **Assistant Planner's** report dated **04/04/10** (countersigned) states that on the basis of the information provided the applicant has a genuine rural housing need and complies with section 10.4 of the County Development Plan. It is considered that the proposal is infill in nature and would complete the continuous road frontage development in this area. The site access and hydrological assessment reports accompanying the application are noted. A grant of permission subject to conditions is recommended.

## 4.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to grant permission for the above described development subject to 20 conditions. In addition to the standard planning and engineering requirements the following are noted:

Condition 2(a): The existing gate at the corner to be removed with the hedgerow at this corner to be setback to improve sightlines.

Condition 3(a): Occupancy clause

Condition 4: Retention of hedgerow and trees.

## 5.0 GROUNDS OF APPEAL

The 3<sup>rd</sup> Party appeal by Michael & Karen Kelly against the Planning Authority's decision to grant permission can be summarised as follows:

### 5.1 *Compliance with Settlement Location Policy and Pattern of Development*

- The applicant does not comply with the settlement location policy for the area as set out in the current County Development Plan. He resided in Cabinhill Ratoath which is 6km from the application and cannot be considered to be 'near'. The applicant does not reside in his son's dwelling.
- The application site constitutes a break between two areas of ribbon development. The proposal would allow these areas to coalesce thus exacerbating the extent of ribbon development.

### 5.2 *Site Access*

- Having regard to the scale of well-established original hedgerow and 2 no. mature trees that would have to be removed to facilitate sightlines the proposal will not comply with Policy RD POL 9 of the County Development Plan which seeks to avoid the removal of large sections of hedgerow. The proposal would fail to be adequately absorbed and integrated into the landscape and would militate against the preservation of the rural

environment. It would also conflict with policies RD POL 9, RD POL 41 and NH POL 13 and the provisions of the Meath Rural House Design Guide.

- The shared access arrangement was previously considered unacceptable by the Planning Authority. Sightlines are restricted. The applicant has failed to demonstrate compliance with RD POL 43 in terms of sight distances of 90 metres from a setback of 2.4 metres and does not comply with NRA design Manual for Roads and Bridges, Section TD 41-42/09. The existing access is already a traffic hazard. Facilitating additional vehicular movement would increase the hazard. The Senior Executive Engineer, Road Design recommended a refusal of permission. It has previously been determined that the only way to obtain the necessary sight distances was by removing the entire length of hedgerow. This was previously unacceptable to the Planning Authority and formed one of the reasons for refusal of permission. The site layout plan does not accurately depict the extent of hedgerow which will need to be removed. The condition attached to the planning authority's decision does not specify the extent of hedgerow removal to the north.
- The letter of consent from Mr. P. McCullagh agreeing to the maintenance of hedges and cutting down trees is contrary to the Department's guidance in terms of ability to enforce a condition. It is contended that the provision of the required sight distances requires works outside of the applicant's application site and therefore outside his legal control.
- The road in the vicinity is restricted in width, is poorly surfaced, has deep embankments and/or ditches on either side and provides access for a significant number of dwellings. It is a busy short cut to Dunshaughlin and the R147 (former N3).

### **5.3 Effluent Disposal**

- The area has poor percolation characteristics and a high water table. The proposal would result in at least 8 systems in a 100 metre radius in an area where the local drains are already polluted. The assessment by the hydrologist only looks at the issue in a micro radius of the site and not the wider radius. The existing working water pump along the roadside frontage of the site has been omitted in the assessment. The system serving the adjoining house was not installed in the correct location which exacerbates the situation. The previous 2 applications for permission on the site also

cited concerns about wastewater disposal in the reasons for refusal. Nothing has changed since the said applications.

#### **5.4 *Amenities of Adjoining Property***

- Due regard should be had to the impact of the existing leylandii hedgerow on their residential amenities. Should the Board grant permission it is recommended that a condition be attached requiring its removal.
- The appellants were not allowed to view the record of the pre application consultations held.

#### **5.5 *Compliance with Previous Permission***

- The application site formed part of the curtilage of an existing dwelling. It has become available due to the non compliance with the conditions attached to a previous permission. The curtilage of the existing dwelling has been reduced from 2.5 acres to 0.8 acres to facilitate the development and requires permission in its own right. The effluent treatment plant has not been located in accordance with the approved plans and extensive lengths of hedgerow have been removed to provide the necessary sight lines.

### **6.0 APPLICANT'S RESPONSE TO GROUNDS OF APPEAL**

The submission by Stephen Ward Town Planning and Development Consultants Ltd. on behalf of the applicant, which is accompanied by supporting documentation, can be summarised as follows:

#### **6.1 *Compliance with Settlement Location and Pattern of Development***

- The applicant complies with the settlement location policy for the area as per the current County Development Plan. He resides with his son on the adjoining site. He previously lived at Cabinhill Rathoath but the house had to be sold as part of a divorce settlement. He has significant ties to the area. Non compliance with local needs was not cited as a reason for refusal in the previous application for permission.

- The applicant has owned the site since 2001. The son of the applicant met local needs requirements. Therefore it is submitted that the applicant must also do so, both having resided at the family home near Rathoath.
- The proposed development meets the requirements of the Meath Rural House Design Guide.
- The proposal constitutes infill development with the applicant having a bona fide need to reside in the area. It will not extend ribbon development. This would be in accordance with Section 10.5.2 of the Development plan which supports a balanced and reasonable view being taken. Relative to the previous application on the site the dwelling has been moved approx. 20 metres further north to the centre. It gives greater separation distance between it and the existing dwelling to the south and also ensures no further dwellings can be accommodated on the site. With a road frontage of 120 metres it is substantially greater than adjoining plots. The proposal will have little discernible impact on the area and would continue the established character and pattern of development.

## **6.2 Site Access**

- Access/traffic safety or sight lines were not given as reasons for refusal on the previous application.
- The proposed access will utilise an existing road opening. None of the existing hedgerow to the front of the site is required to be removed in order to achieve the required sightlines. Whilst two trees are required to be removed to the front of the adjoining property to the south (applicant's son) the hedgerow is to be retained. The trees are not of high amenity value. The dwelling will be in a mature setting providing immediate and effective screening.
- The removal and set back of a section of hedge to the north corner of the site as required by condition 2 is so as to improve visibility around the bend for all users of the road.
- The site access and assessment report which accompanied the application demonstrated that adequate and safe visibility splays are available at the entrance. The local road by reason of its width and vertical and horizontal alignment cannot accommodate high speeds. Speeds in excess of 60kph would not be reached. The 80kph is a maximum speed limit and not a target.

Therefore a 'y' or sightline distance of 90m and equivalent 60kph design speed is, at the most, the upper limit required. More appropriate in the circumstances would be sightline distance of 70 metres for an equivalent speed of 50kph. In any case 90 metre sightlines can be achieved in both directions.

- The Road design Office concluded the development would not endanger public safety by reason of traffic hazard and provided conditions to attach to a grant of permission in the case where the applicant has definite local needs and cannot build elsewhere.

### **6.3 *Effluent Disposal***

- The site suitability assessment report and hydrogeological report demonstrate that acceptable wastewater treatment and disposal facilities can be provided at the site as part of the proposal. The latter report took account of the wider area with the sampling results recorded as part of the assessment indicating the current situation on the ground with all influencing and determining factors including the presence of neighbouring wastewater treatment systems. The report also makes reference to the roadside water pump. The well is not used for public water supply.
- There is no objection to the proposed development from the Environment or Sanitary Services Departments of the Planning Authority or Irish Water.

### **6.4 *Compliance with Previous Permission***

- Allegations regarding unauthorised development are matters that fall within the remit of the Planning Authority. There are no outstanding enforcement matters. The issue of minutes of pre planning consultations is also a matter for the Planning Authority.

## **7.0 PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL**

The Planning Authority has nothing further to add and refers the Board to the reports on file.



## 8.0 OBSERVATIONS

None

## 9.0 PLANNING HISTORY

**PL17.214204** (DA 40499) – permission granted on appeal to Peter McCullagh in 2006 for a dwelling and effluent treatment system. The appeal site formed part of the site to which the permission referred. The Board in its reasons and considerations considered that the proposal would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience.

In deciding not to accept the Inspector's recommendation to refuse permission the Board noted that the Inspector accepted that the applicant came within the scope of the housing need criteria. The Board concurred with the Planning Authority that, given the local need of the applicant and the fact that there is no other land available to him, the development of a house at this location was acceptable. The Board also considered that, having regard to the nature of the road and subject to entrance details being agreed with the planning authority, prior to commencement of development, the development would be acceptable in terms of traffic safety and convenience.

**RA/150100** – the applicant was refused permission for a dwelling on the site in March 2015 for three reasons which can be summarised as follows

1. Excessive concentration of development
2. Excessive concentration of effluent treatment systems
3. Contribution to ribbon development

**DA/900833** – Niamh McCulloch was refused permission for a dwelling on the site in July 2009 for four reasons which can be summarised as follows:

1. Removal of excessive tracts of mature hedgerow to achieve adequate sightlines would be contrary to County development policies
2. Excessive concentration of effluent treatment systems
3. Contribution to ribbon development
4. Excessive concentration of development

**DA/803097** – Niamh McCullagh was refused permission for a dwelling on the site in January 2009 for three reasons which can be summarised as follows:

1. Excessive concentration of development
2. Contribution to ribbon development
3. The PA was not satisfied that suitable sightlines could be achieved and would require the removal of large sections of hedgerow and would be contrary to Development Plan policies.

**DA/130746** – permission granted for a dwelling in November 2013 for a dwelling on the opposite side of the road. The dwelling has been recently completed.

## 10.0 DEVELOPMENT PLAN PROVISIONS

The **Meath County Development Plan, 2013** refers.

The site is within a rural area designated as being under strong urban influence. The key challenge in such an area is to facilitate the housing requirements of the rural community while directing urban generated housing development to areas zoned for new housing in towns and villages in the area of the development plan.

**Policy 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.

Meath County Council recognises the interest of persons local to or linked to a rural area, who are not engaged in significant agricultural or rural resource related

occupation, to live in rural areas. For the purposes of this policy section, persons local to an area are considered to include:

- Persons who have spent substantial periods of their lives, living in rural areas 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 not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside;

Where an applicant for a one off house in the countryside can demonstrate, by the submission of documentary evidence, that their original dwelling was sold due to unavoidable financial circumstances, such applications will be considered on their individual merits, where the applicant satisfies local housing need criteria. This consideration does not override the other normal assessment criteria as set out in this Development Plan for a one off house.

**Section 10.5.1** sets out the **Development Assessment Criteria** which would be taken into account in assessing individual proposals for one off housing including housing need, 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, the suitability of the site in terms of access, wastewater disposal and house location and the degree to which the proposal might be considered infill development.

### **Section 10.5.2 Ribbon Development**

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 250 metres of road frontage. (Please note that in all instances where ribbon development is referred to in this Development Plan, the example contained in Appendix 4 of the Sustainable Rural Housing Guidelines for Planning Authorities as published by the DoEHLG in April 2005 shall apply). Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:

- 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.

## 11.0 ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be addressed under the following headings:

1. Compliance with settlement location policy
2. Ribbon Development
3. Site Access
4. Effluent Disposal
5. Impact on Amenities of Adjoining Property
6. AA - Screening

### 11.1 *Compliance with settlement location policy*

As per the current County Development Plan is site is within an area under strong urban influence. As evidenced from the one off housing evident in the vicinity and, taking into consideration the relative proximity of the area to both Navan, Dunshaughlin and Dublin, the designation is considered to be entirely reasonable. The key challenge in these areas is to maintain a reasonable balance between facilitating the housing requirements of the rural community while directing urban generated housing development into areas zoned for new housing in towns and villages in the area.

The site in question arises from the sub-division of a larger site which secured permission by the applicant's son under PL17.214204 (DA 40499). In that instance the Board concluded that given the local need of the applicant and the fact that there is no other land available to him, the development of a house at this location was acceptable. I note that the applicant proposed to undertake a horticultural business on what is now the appeal site. This has not occurred to date. I also note that the location of the effluent treatment plant serving the existing

dwelling does not appear to have positioned in accordance with the approved plans thereby facilitating the subdivision of the site as proposed.

Notwithstanding the fact that the site formed part of an earlier permission secured by the applicant's son I note that the site is stated as being in the applicant's ownership on the application form. This application constitutes the 4<sup>th</sup> for a dwelling on the site. The applicant's daughter was unsuccessful in two instances in 2009 with the applicant refused permission in 2015. The latter application for development would have been assessed in the context of the current development plan.

The applicant originally lived in the family home in Cabinhill in Rathoath which is approx. 4.5km from the site. The family home has been sold arising from divorce proceedings with the applicant stated to be currently residing with his son in the adjoining house since the sale. Whilst the appellants contest this point evidence accompanying the application would appear to support the claim. I also note the applicant's involvement in various clubs/associations in the area. Taking into consideration the provisions of section 10.4 of the development plan which provides for a positive presumption both for persons who are an intrinsic part of the rural community and those who have had to sell an original dwelling due to unavoidable financial circumstances, coupled with the fact that the Board previously adjudicated that the applicant's son complied with the local need parameters, I accept that the applicant can be considered to comply with the tenets of the development plan in this regard.

However as stated in both the County development Plan and the Rural Housing Guidelines, the acceptability of the proposal in terms of settlement policy is predicated on other planning and environmental considerations being satisfied.

## **11.2 *Ribbon Development***

The local road serving the site is characterised by a significant level of one off housing. In the immediate vicinity there are two dwellings to the south of the site with a further four to the north. The fact that there is a bend in the road between the appeal site and the next dwelling to the north gives a visual break between development. There are two dwellings on the other side of the road opposite the site.

As per section 10.5.2 of the current development plan 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 250 metres of road frontage with specific regard had to the Appendix 4 of the Rural Housing Guidelines for Planning Authorities. The development plan does allow for some discretion where a given proposal will exacerbate such ribbon development namely 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. I note that the planning authority considered this issue to be a substantive concern in the previous 3 applications on the site and was cited in its reasons for refusal.

As stated above I submit that the site constitutes a break between two areas of development and would not consider that it has the attributes normally associated with an infill site in that the site has a stated area of 0.45535 hectares and a road frontage of c.120 metres. I consider that building on the appeal site would effectively join the two areas giving a ribbon of in excess of five dwellings over a road frontage of less than 250 metres (when taken with the dwellings to the north) and, when added to the existing development in the area, would constitute an excessive density of suburban type development within a rural area. With due cognisance of the balanced view advocated in the current Development Plan's I consider that the planning history and development pressures of the area need to be given due weight relative to the need of the applicant. I would therefore recommend refusal on such grounds.

### **11.3 Site Access**

A shared access arrangement with the existing dwelling is proposed. As noted sightlines of 90 metres are achievable in both directions subject to the removal of two trees and hedgerow maintenance on the applicant's son's site to the south for which consent has been secured. I note that the Board considered the access to be acceptable in its adjudication of the previous appeal on the lands.

I note the local road in the vicinity of the site to be narrow with drains to either side precluding unimpeded two way vehicular movements along parts. There are no pull-in areas along the road, with the exception of entrance points into houses. In addition the horizontal alignment is poor with bends to the north and south of the site. Notwithstanding the report by Transport Insights accompanying the application I would express serious reservations in facilitating further development on this section of road. I note that the Senior Executive Engineer Road Design recommended a refusal of permission on the grounds of over intensification of development on the narrow road.

#### **11.4 Effluent Disposal**

As per the Soil Characterisation and Site Suitability Assessment Report which accompanies the application a T value of 64.08 and P value of 46.5 were recorded. Groundwater was encountered in the trial hole at a depth of 1.90m and it is noted that winter groundwater was in evidence up to a depth of 1.20. A purpose built soil polishing filter is to be constructed to ensure that there is a minimum of 0.90m of suitable percolating material between the base of the lowest part of the polishing filter and the winter groundwater level. The application is also accompanied by a Hydrological Assessment which concurs with the recommendations of the Site Characterisation Form. Three wells are identified within 250 metres of the proposed polishing filter with the water pump 50 metres away stated as disused.

I note from the EPA document *A Risk-Based Methodology to Assist in the Regulation of Domestic Waste Water Treatment Systems* published in 2013 that the area of the site is identified as being of very high risk. It notes that the risk to human health from waste water arising from domestic treatment systems is significantly higher in areas with a high housing density and inadequate percolation.

Notwithstanding the compliance with the EPA code of practice I would suggest that the proposal could be considered to run counter to the recommendations of the Rural Housing Guidelines and RD POL 46 of the current County Development Plan which state that new development should be guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. In this context the concentration of such facilities in the vicinity which is considered by the EPA to be of

very high risk is a concern. These considerations coupled with the very real precedent for further one off housing served by effluent treatment systems that could be set in the vicinity would, in my opinion, militate against a favourable decision in this instance. I consider that the proposal should only be accepted in exceptional circumstances where an essential housing need at this location has been established. I do not consider that this is the case in this instance.

### **11.5 *Amenities of Adjoining Property***

Taking into consideration the separation to be maintained between the proposed dwelling and the appellants' property to the north I do not consider that issues in terms of impacts on residential amenity by way of loss or privacy arise. I note the appellants' concerns regarding the existing leylandii trees planted along the shared boundary in terms of impacts on amenities of their property but submit that this is a matter for resolution between the parties and not a matter for the Board.

### **11.6 *AA – Screening***

The site is approx. 14 km to the north of the Rye Water Valley/Carton SAC (site code 001398) the qualifying interests for same being Petrifying Springs, Narrow Mouthed Snail and Desmoulin's Whorl Snail. To date generic conservation objectives pertain for the site the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Taking into consideration the scale of the development proposed, its separation from the European site and the said qualifying interests for same, it is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site number 001398 and in view of the site's conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.



## 12.0 CONCLUSIONS AND RECOMMENDATION

Whilst the applicant is considered to comply with the tenets of the settlement location policy for the area this is predicated on other planning and environmental considerations being satisfied. The issues of concentration of development including the pattern of ribbon development, the adequacy of the local road and concentration of effluent treatment systems are of material concern in this instance. Whilst the extensive documentation accompanying the application to counter the reasons for refusal previously cited by the planning authority on application RA/150100 are noted I do not consider that the overarching problems arising from the concentration of development which has been facilitated have been, or are able to be resolved. Therefore I consider that the proposal contravenes the development assessment criteria as set out in Section 10.5.1 of the development plan. I therefore recommend that permission for the above described development be refused for the following reasons and considerations.

## **REASONS AND CONSIDERATIONS**

Taken in conjunction with existing development in the area, it is considered that the proposed development would give rise to an excessive density of development in a rural area that is under strong urban pressure for development, is lacking certain public services and community facilities and is served by a poor road network. The proposed development would also contribute to ribbon development and the increasing suburbanisation in this area, and to the continuing erosion of its rural character. The proposed development would, therefore, contravene the development assessment criteria set out in Section 10.5.1 of the Meath County Development Plan 2013–2019. Furthermore, the proposed development would be located in an area identified by the Environmental Protection Agency as being at very high risk from domestic waste water pollution. It is considered that the proposed development, in combination with the excessive concentration of individual wastewater treatment systems in the area, would exacerbate risks of environmental pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Inspectorate**

**August, 2016**