



An  
Bord  
Pleanála

## Inspector's Report PL01.246711

### Development

Planning Permission to construct a dormer style dwelling, wastewater treatment system, use and widening of existing entrance (to become a shared entrance), connection to existing water mains and all associated site works at Kilcoole, Rathoe, Co. Carlow

### Planning Authority

Carlow County Council

### Planning Authority Reg. Ref.

15/357

### Applicant(s)

Eamon O'Reilly

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Appellant(s)

First Party v. Refusal

### Observer(s)

None

### Date of Site Inspection

2<sup>nd</sup> September 2016

### Inspector

Dáire McDevitt

## **1.0 Site Location and Description**

- 1.1 The application site which has a stated site area of c. 0.35ha is part of a subdivision of the original site associated with a cottage. It is located in a rural area in the townland of Kilcoole off the L3050 (local primary road) within 500m of the junction with the adjoining N80 (Graiguenaspiddoge crossroads) and approximately 5 kilometres to the south-east of Junction 5 on the M9. Junction 5 provides access to Carlow Town which is to the north-west. The L3050 has a narrow carriage way. At the time of inspection, it was noted that this road was heavily trafficked by cars and HGVs.
- 1.2 The area is characterised by a mixture of single storey and dormer style dwellings. This section of the L3050 has been the subject of extensive ribbon development.
- 1.3 The access to the application site is by means of an existing vehicular access which serves a refurbished cottage in the applicant's ownership located to the west of the dwelling proposed. Immediately to the west of the proposed access to the site is a derelict structure and to the east of the application site there is a dormer house.
- 1.4 The cottage has been the subject of extensive refurbishment in the recent past. Site boundaries are defined by post and rail fencing, boundaries between the application site and the cottage are post and wire fencing. There is a container on the application site.
- 1.5 Maps/Photographs in file pouch.

## **2.0 Proposed Development**

Permission is sought for a dormer style dwelling, wastewater treatment system, use and widening of existing entrance (to become a shared entrance), connection to existing water mains and all associated site works.

### **3.0 Planning Authority Decision**

#### **3.1 Decision**

3.1.1 The Planning Authority's decision to refuse cites the following two reasons:

Reasons for refusal:

- The proposed development would constitute a traffic hazard by virtue of the severely restricted visibility when exiting the site to the right. The site is situated at a sharp bend on the adjoining substandard narrow and poorly aligned local road and given the existing excessive number of dwellings in the area the additional traffic generated would therefore not be in accordance with the proper planning and sustainable development of the area.
- The proposed development, would if permitted, conflict with Section 2.7.6 of the Carlow County Development Plan 2015-2021 policy on the prevention of excessive ribboning in this rural area which is under extreme development pressure. The proposed development would contribute to the further encroachment of such development in this area and would represent an undesirable precedent for further such development, and would therefore be contrary to the proper planning and sustainable development of the area.

#### **3.2.1 Planning Authority Reports**

##### **3.2.1.1 Planning Reports (dated 26<sup>th</sup> January and 13<sup>th</sup> May 2016):**

The main issues which formed the basis for the Planning Authority's decision include:

- Planning history
- Traffic concerns, notwithstanding the use of an existing entrance. The Planner in their report highlighted that the intensification of the use at this location would constitute a traffic hazard.
- Ribbon development

- Separate application for planning permission required for the proposed demolition works to the cottage to facilitate sightlines

A Further Information request was issued in relation to unobstructed sightlines and ribbon development.

Further Information submitted included proposals to demolish the 'porch' to the front of the cottage and remove trees along the roadside boundary to achieve sightlines.

### **3.2.2 Other Technical Reports**

- **Roads Section:** Further Information on roads issues. And Clarification of Further Information on sightlines. This did not issue.
- **Environment Section:** No objection subject to conditions.
- **Area Engineer:** No recommendations or Observations.

### **3.2.3 Third Party Observations**

The Planning Authority received one submission in relation to the planning application (and follow up following Further Information submission) which highlighted the following concerns:

- Traffic hazard.
- Ribbon development
- Speculative development
- Applicant's mother does not reside in the cottage; this is in fact rented out to third parties.
- Previous reasons for refusal have not been overcome.
- Applicant does not have consent to cut/trim hedgerows that are not within his own landholding.

## 4.0 Planning History

4.1 There is a history of previous refusals of planning permission associated with the application site, these can be summarised as follows:

**15/226:** Permission refused in 2015 on two grounds relating to

- Traffic
- Ribbon development

(location of entrance differed from current location)

**07/1262:** Permission refused in 2008 on five grounds relating to:

- Traffic
- Ribbon development
- Over development in a rural area and pressure on services, which would set an undesirable precedent
- Overdevelopment of existing cottage and subdivision of associated plot
- Local Need and random rural development

(location of entrance differed from current location)

## 5.0 Policy Context

### 5.1 Carlow County Development Plan 2015-2021

The relevant plan is the Carlow County Development Plan 2015-2021 (CDP 2015-2021)

The site is in a Rural Area under Urban Influence

- **Section 2.7.1.1 Rural Housing Policy**

- **Section 2.7.1.3 One -Off Housing in the Countryside**

*The Council recognises the need to maintain vibrant rural communities and respond effectively to the rural generated housing needs of the people of Carlow. It shall be the policy of Carlow County Council to facilitate the development of one off rural housing throughout the county by persons demonstrating local rural generated housing needs. In this regard positive presumption will be given to the building of rural dwellings by persons in the following categories:-*

- a) - The dwelling will be for the persons own occupation and is required having regard to housing need and the applicants wish to live in the local area*
- b) - Good practice has been demonstrated in relation to site location and access, drainage and design*

*.....*

- e) The development of one-off rural housing will be subject to appropriate assessment in accordance with Article 6 of the Habitats Directive*

- **2.7.1.4 Persons who are an intrinsic part of the rural community**

*Such persons will normally have spent a substantial part of their lives living as members of an established local rural community and/or can demonstrate strong family ties with the local community. Examples include:*

- Immediate family member of an existing householder/landowner who is intrinsically linked to the area to include son, daughter, mother, father, sister, brother, wishing to build a permanent home for their own use in the local area*

*Documentary proof will be required to be submitted with applications to show compliance with the above policies.*

*Three years shall be deemed to be the minimum period of residency necessary in order to be considered a member of the local community. The term local shall be construed for assessment purposes as within a radius of circa 8 km.*

- **Section 2.7.6 Ribbon Development**

*Ribbon development is defined by reference to the Appendix 4 of the Guidelines on Sustainable Rural Housing (DoEH&LG – 2005). Ribbon development is undesirable as it creates numerous accesses onto traffic routes, sterilises back lands, land locks farmland, creates servicing problems (water supply, drainage, footpaths and lighting) and intrudes on public views of the rural hinterland. The Council will therefore seek to prevent ribbon development particularly in the environs of towns and large settlements. Issues to be considered include: -*

- The type of rural area and circumstances of the applicant*
- The degree to which the proposal might be considered infill development*
- 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*

- **Section 2.7.8 Infill Housing**

*Infill housing in built up areas of towns, rural settlements and where appropriate between existing houses in the country side will be encouraged. An infill site is described as a maximum two-acre site to accommodate one dwelling only and must be situated between a fully built/occupied dwelling on either side of the site. Proposals must not give rise to ribbon development as defined and proposals should be designed to integrate successfully with existing pattern of development in terms of housing type, scale and details such as materials, finishes, building lines etc. Proposals will also be required to satisfy the Council's objective of protecting the amenities of existing developments. The applicants or proposed occupants will not be required to comply with local need criteria. It shall be the policy of the Council to prevent the creation of further infill sites and applications for permission will be refused where the development proposed would create such an infill.*

## **5.2 Sustainable Rural Housing Guidelines (2005):**

*The overarching objectives (Chapter 2) include:*

- *The delivery of sustainable rural settlement*

- *Guidance of residential development to the right locations in rural areas in the interest of protecting natural and man-made assets.*
- *Tailoring planning policies to different types of rural areas.*

*Appendix 4 recommends against the creation of ribbon development for reasons relating to road safety, future demands on public infrastructure and visual impacts.*

### **5.3 Natural Heritage Designations**

None

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The main grounds of the first party appeal can be summarised as follows:

- The proposed development is not speculative and the applicant is willing to accept an occupancy condition attached to any grant of permission.

The applicant has stated that it is his intention to live close to his elderly mother (resides in the existing cottage on site) and that the cottage is not adequate to cater for his mother and his family's needs. He also has a brother residing along this road and together they have links to the area (road) for 8-12 years.

- Previous refusals for a house at this location on traffic grounds had been addressed by changing the access proposals to that of a shared entrance with the cottage on site and by the carrying out of works to the entrance and cottage to accommodate sightlines.
- Pre-planning consultation indicated that the application site was viewed as an infill site and therefore ribbon development was not an issue.
- Sightlines and revised location of an access were also discussed at pre-planning stage. This was also dealt with through a Further Information request



and relevant consents were submitted regarding works required to achieve sightlines.

- The applicant has dealt with the third party submission on the planning file in the appeal submission.
- Appeal documentation includes a letter of support from a Local Councillor (Cllr. John Pender).
- A Sightlines Assessment prepared by Roadplan Consulting has also been included. This concludes that the sightline to the east (subject to removal of vegetation, porch and fencing) would be 70m and not the 90m as recommended. However, the 70m in this instance is considered acceptable for the following reasons:
  - The speed limit is indicated as 80kph. However, the design speed of the road is 60kph.
  - The measurement of a sightline (as per DMRB) is to the nearside edge of the road. This is significant in the case of sightline to the east, in that the curvature of the road restricts the sightline to that edge, but a longer sightline would in fact be available to approaching traffic. The actual sightline available to traffic approaching from the east would be in the region of 80m, not a large reduction on the recommended sightline of 90m.
  - Reference to research carried out in the UK on sightlines and design speed indicating that for a 60kph design speed sightlines of 59m are required.
  - Survey of neighbouring accesses were carried out and sightlines noted. Some of these are significantly under the required 90m and there is no record of collisions as per the Road Safety Authority (RSA) database on this section of road.

- Stopping distances for 60kph travel speed is 33m (dry) and 49m (wet). The bends in the road on either side would limit speeds to 60kph.
- If this section of road is realigned by the Council in the future the upgrading would also provide increased sightlines at accesses, appropriate to the new design speed.

## **6.2 Planning Authority Response**

The Planning Authority notes that the issues raised in the appeal were addressed in the Planner's Reports.

## **6.3 Observations**

None received.

## **7.0 Assessment**

7.1 The area is characterised by a mixture of single storey and dormer style dwellings. This section of the L3050 has been the subject of extensive ribbon development and is identified as a rural area under urban influence in the County Development Plan due to its proximity to the N80 (main Tullow-Carlow route).

7.2 The main issues in this appeal are those raised in the grounds of appeal pertaining to traffic safety and ribbon development. The issue of Ribbon vs Infill development needs to be addressed as this has implications for the application of Council's Rural Housing Policies and compliance with Local Needs Criteria. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Traffic hazard
- Ribbon development v. Infill development

- Local Rural Housing Need.
- Appropriate Assessment

## **7.2 Traffic:**

- 7.2.1 Permission was refused on traffic grounds. All previous refusals on this site included a reason on the grounds of traffic hazard due to restricted visibility at the location of the proposed entrance. The applicant sought to address the previous reasons for refusal by proposing a shared entrance with the existing cottage under the current application.
- 7.2.2 Sightlines are severely restricted at the proposed access point to the site. The existing cottage has been the subject of extensive refurbishment works and timber post fence define the entrance. Sightlines at this point do not comply with the minimum standards. At the time of inspection, it was noted that the L3050 was a heavily trafficked route used by cars and HGVs along a section that has poor horizontal alignment and a speed limit of 80kph. The road serves as a popular link off the N80
- 7.2.3 The Planning Authority Roads Section raised concerns on traffic grounds and recommended Further Information and subsequently Clarification of Further Information on this matter. Further Information was requested and the applicant proposed to demolish the 'porch' associated with the cottage and remove trees to set back the boundary to facilitate sightlines.
- 7.2.4 The applicant in his submission referred to a reduction in sightlines requirements as per the DMRB based on the design speed of the road and not the statutory speed limit. I note that the DMRB standards state 90m are required for roads with a design speed of 60kph and that the discretion for a reduction of these standards would be based on the results of a speed survey showing that 85% of vehicles that travelled along this section of the road travelled at speeds below the speed

limit. No speed survey has been carried out as per the DMRB guidelines to support a sightlines requirement of less than 90m at the access point.

7.2.5 Having examined the file and inspected the site I agree with the Planning Authority that the use of the existing substandard entrance (in terms of sightlines from the entrance and stopping distances along the L3050) would create a traffic hazard on this heaving trafficked local road accessed off the N80.

7.2.6 I consider, therefore, that the Planning Authority's first reason for refusal should be substantially upheld.

### **7.3 Infill v. Ribbon Development**

7.3.1 Under 07/1262 one of the grounds for refusal of permission was non-compliance with the Rural Housing policy. It was noted in the Planner's Report at the time that the site did not constitute Infill development. A subsequent application was lodged under 15/226 and permission was refused, however the reason for refusal on grounds of non-compliance with the rural housing policy was omitted. Ribbon development was also included as grounds for refusal.

7.3.2 The applicant engaged in pre-planning consultation with the Planning Authority (reference 15/245) prior to lodging the current application. The application site was referred to as an infill site and that the applicant wished to build a house beside his mother (occupant of the cottage) and share the existing vehicular access to the cottage.

7.3.3 The two policies relating to Ribbon Development and Infill Housing as outlined in Section 5 of this Report are slightly contradictory; Section 2.7.8 notes *infill development must not give rise to ribbon development as defined* and Section 2.7.6 notes when assessing ribbon development issues to be considered include: *the degree to which the proposal might be considered infill development.*

Ribbon Development is where 5 or more houses exist on any one side of a given 250 metres of road frontage. The current proposal would be the 6<sup>th</sup> house.

- 7.3.4 Having regard to the nature of the application site and the definition of infill development as set out in the Carlow County Development Plan 2015-2021 and Appendix 4 of the Guidelines on Sustainable Rural Housing (DEHLG 2005) I am satisfied that the site can be regarded as ribbon development and not infill notwithstanding the use of a shared entrance.
- 7.3.5 I consider, therefore, that the Planning Authority's second reason for refusal should be substantially upheld.

#### **7.4 Local Need -New Issue:**

- 7.4.1 Further to the assessment and conclusion reached in section 7.3 above, compliance with the Council's rural housing policy applies as the site is not deemed to be infill. This issue was not included in the Planning Authority's reasons for refusal or the appeal submission.
- 7.4.2 Permission refused under 07/1262 included a reason pertaining to non-compliance with the rural housing policy. Subsequent planning applications (15/226 and 15/357 (current application)) did not include this as grounds for refusal.
- 7.4.3 Information submitted in 2007 outlined that the applicant resided in the family home at Sherwood House, Kilbride, Co. Carlow for the 8 years prior to 2007, previous to which the family resided in Baltinglass, Co. Wicklow.
- 7.4.4 Under the current application the applicant has outlined that his mother resides in the cottage (with which it is proposed to share an entrance) and has resided on this road for the past 8-10 years. There is no supporting documentation on file in relation to the occupancy of the cottage by the applicant's mother or the applicant's need for a second dwelling on site.
- 7.4.5 Having reviewed the information on file the applicant has not clearly demonstrated that he would comply with the Council's Rural Housing Policy. A reason for refusal should also issue on these grounds.

## **7.5 Appropriate Assessment:**

- 7.5.1 There is no evidence of significant surface water conduits within the site. There is watercourse c.140 from the western boundary. The closest Natura 2000 site is the River Barrow and River Nore SAC (site code 002162) c.7.5km to the west and the River Slaney SAC (site code 00781) c. 7.8km to the east.
- 7.5.2 These are very extensive sites. The River Barrow and River Nore SAC is spread across eight counties and the Slaney River Valley SAC three counties. Specific Conservation Objectives has been prepared for the sites.
- 7.5.3 The proposed development would be served by a wastewater treatment system. Site Assessment has been carried out and included with the Planning Application. The site test results show that the site is suitable for a proprietary wastewater treatment system and complies with the EPA Code of Practice for Single Houses (2009).
- 7.5.4 Given the substantial separation distance to the nearest identified watercourse, there is, in effect, no significant hydrological connection to the designated sites referred to in paragraph 7.5.1.
- 7.5.5 Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002162 or site No. 00781, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1 I recommend that permission be refused for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a local primary road which is seriously substandard in terms of width and alignment and at a point where sightlines are restricted in both directions.
2. It is the policy of the planning authority as set out in the current development Plan to control urban sprawl and ribbon development. This policy is considered to be reasonable. The proposed development would be in conflict with this policy because, when taken in conjunction with existing development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the site within a rural Area under 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 section 2.7.1.3 and Section 2.7.1.4 of the current Carlow County Development Plan, it is considered that the applicant does not come within the scope of the housing

need criteria as set out 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

Note: Reason no. 3 refers to a new Issue that was not included in the reasons for refusal or raised in the appeal submission.

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Dáire McDevitt  
Planning  
Inspector

8<sup>th</sup> September  
2016