



An
Bord
Pleanála

Inspector's Report PL19.246898

Development	Permission for construction of a house, garage and effluent treatment system, at Ballymacwilliam, Rhode, Co.Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	16/27.
Applicant(s)	Joseph Spollen and Elaine Bourke.
Type of Application	Permission.
Planning Authority Decision	Grant permission with conditions.
Appellant(s)	Rosemarie Manning (3 rd Party vs. Grant).
Observer(s)	None.
Date of Site Inspection	22 nd September 2016.
Inspector	C. Kellett.

1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of the R441 regional road c. 4.6km east of Rhode and c. 5.3km north-west of Edenderry. The Grand Canal is c.1.6km due south of the site and Black Castle Bog NHA is c. 500m to the north. The area is characterised by ribbon development and mainly agricultural landuses.
- 1.2. The proposed site is to the west of a row of three single storey/dormer style houses. The site is currently an agricultural field. The stated area of the site within the redline is 0.354Ha. EirGrid 400kV powerlines run along the north-west corner of the site and buried electrical cables run along the rear of the site. The R441 road is single carriageway outside the site and the speed limit is 80kph along this section. The boundary of the site on all sides comprises mature hedgerows and trees.
- 1.3. Appendix A includes a map, aerial view and photos of the development.

2.0 Proposed Development

- It is proposed to construct a new dwelling house, garage and effluent treatment system.
- The proposed new dwelling is described as a storey and a half house with a projecting gable wall to the front. It has a stated floor area of 243.7sqm and an overall height of 8.998m. The garage has a stated floor area of 66sqm.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision to **grant permission** subject to 15 standard conditions.

3.2. Planning Authority Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Reference to pre-planning meeting where local needs was discussed.
- Considers main issues for assessment are Development Plan policy, Roads and Traffic Safety, Public Health, Siting and Design, Residential Amenity, Appropriate Assessment and other screening.
- States that the proposed development is within a "pressure area" as identified in the County Development Plan.
- Notes that a "positive presumption" will be given towards a new single house where the applicant falls within one or more of the three categories for Local Rural Persons. It is considered that the applicant fulfils the criteria specified in Category 1 – "local rural person" from the "local rural area", and with a "local rural housing need".
- Considers site is of adequate size to accommodate a wastewater treatment system and percolation area.
- Considers the overall height of the house excessive and the elevation design too fussy but does not consider the subject development will result in ribbon development as defined in the Sustainable Rural Housing Guidelines for Planning Authorities.
- Recommends a Request for Further Information (FI) with respect to; 1) minimum sightlines of 150m to be demonstrated, 2) consider redesign of front elevation and overall height, 3) provide details of well located within the curtilage, 4) provide written confirmation from ESB Networks that the location complies with clearance requirements, and 5) provide landscape plan.
- Notes that the applicant responded to the FI adequately and recommends a grant of permission.

- The decision was in accordance with the Planning Recommendations.

3.3. Other Technical Reports

The application was referred to:

- Area Engineer – no objection subject to conditions.
- Environment and Water services – no objections subject to conditions.

3.4. Third Party Observations

- A submission was made by MacCabe, Durney, Barnes on behalf of Ms. Rosemarie Manning of Ballybrittan, Co. Offaly. The submission states that: the house design would detract from the rural nature of the area; would constitute ribbon development; queries the applicants need for a rurally located house; and; the development does not comply with the Council's rural house design guidelines.

4.0 Planning History

- Reg. Ref. 01/1019: Dwelling on adjoining site.

5.0 Policy Context

5.1. Offaly County Council Development Plan 2014-2020.

Chapter 1 outlines the Core Strategy and Chapter 8 refers to Development Management Standards.

Map 1.2 is the Core Strategy Map. Rhode to the west of the site is considered a village and Edenderry to the east is a key service town. The subject site is located outside of any settlement and is located in the area defined as "Pressure Areas".

Table 1.5 *Settlement Hierarchy and Planning Principles for development*, refers to the *Open Countryside*. The subject site is not located within any settlement and is therefore considered under policies for *Open Countryside*. It states: "*The open*

countryside encompasses all lands located outside of the identified settlements. This Council recognises the need to sustain rural communities through the provision of housing coupled with the countryside's agricultural function and other rural landuses such as forestry, tourism and rural enterprise and development. The Council continues to facilitate local growth which sustains rural communities within Offaly whilst managing development pressures and protecting the countryside's scenic amenities and environment".

The policy in relation to housing within the open countryside in Offaly is informed by the Department of the Environment, Heritage and Local Government's (DEHLGs) *Sustainable Rural Housing Guidelines* (2005), which provides that Planning Authorities "*distinguish between areas under strong urban influence, stronger rural areas and structurally weaker areas.*

Map 1.3 indicates that the subject site is located in an area under "Strong Urban Influence".

With respect to ribbon development the Plan states: "*Ribbon development will be assessed as a material consideration in all rural housing applications*".

It is stated that:

Rural housing will be assessed against the following criteria to determine if there is an issue with ribbon development:

- *Number of houses located long the particular stretch of road.*
- *What distance of road is fronted by existing rural housing.*
- *Number of access points to existing houses. This does not assume that intensifying the use of an existing access mitigates against ribbon development or overcomes the issue.*
- *Is the site a gap or infill site or is it considered to extend an existing ribbon of houses?*

- *Is there a design solution proposed to integrate building and mitigate against the visual impacts of ribbon development?*

The Council's policy on Rural Housing in the Countryside is SSP-17.

SSP-17: *It is Council policy to encourage and promote quality design, appropriate scale, form, informed siting, quality materials and finishes and to incorporate where possible and practicable, the best principles and mechanisms for sustainability and energy efficiency. In addition, it is also Council policy to ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations including the following (inter alia)¹:*

- *The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding.*
- *The ability to provide safe vehicular access to the site.*

Policy SSP-18 refers to Local Need Criteria.

SSP-18: *It is Council policy that within areas of the open countryside identified as a pressure area in Map 1.4: a positive presumption will be given towards a new single house for the permanent occupation of an applicant who falls within one or more of the 3 categories below and meets the necessary criteria.*

Category 1 refers to Local Rural Persons. Category 2 refers to Persons Working Fulltime or Part-time in Rural Areas and Category 3 refers to Exceptional Health Criteria.

Section 8.7 refers to Development Management Standards for Single Houses in the Countryside. The Plan refers applicants to the Planning Authority Design Guidelines

¹ Additional points are included in this policy – only those relevant to this case are listed here.

for the County. The Guidelines state that “*Their purpose is to be helpful and to give an understanding of the issues concerned with achieving good siting and design*”.

5.2. Natural Heritage Designations

There are no European sites within the vicinity. Black Castle Bog NHA (Site Code 000570) is located approximately 500m north of the proposed site.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal against the decision to grant permission has been lodged by MacCabe Durney Barnes on behalf of Rosemarie Manning of Ballybrittan, Co. Offaly.

The grounds of appeal can be summarised as follows:

- The development is contrary to the provisions of the Offaly County Development Plan and the Sustainable Rural Housing Planning Guidelines.
- The site is in an area of pressure in the form of ribbon development and the proposed development would extend the existing ribbon development. The Council’s Planner did not consider it to be ribbon development because it was not a fifth house but this house would create a fourth house.
- The Authority has accepted the applicants qualify for a rural housing need but the application indicates that one of the applicants intends to return from the UK. Questions if this has been verified.
- The proposed development breaches the Council’s design guidelines *Designing Houses- Creating Homes* in a material and substantial manner. The appeal specifically refers to: Site Location, Scale and Form, Design, Materials, Finishes and Colour, and Landscaping. Each point is addressed in detail.
- The design issues cannot be addressed by condition as the visual problems are fundamental.

- The proposed development is unsuitable for its rural setting by reason of its design.

6.2. Planning Authority Response

The Planning Authority responded to the appeal by stating that: the proposed dwelling does not constitute ribbon development as defined in the Sustainable Rural Housing Guidelines for Planning Authorities; the applicant has strong links with the rural community and is deemed to comply with rural housing policy; and, the landscaping will ensure any impact is short term. The Planning Authority requests the Board to uphold their decision to grant permission.

6.3. Applicant's Response

The First Party response to the appeal includes:

- This particular area, while identified as an area under pressure in the Offaly Development Plan, has not shown pressure in the past or the present. There is no development in the area that would constitute ribbon development e.g. 5 or more houses on any one side of a given 250m of road frontage. The existing 3 houses take up road frontage of 110m and this proposed house will only extend it to 150m.
- Applicant has proven that his origins are of this locality and he is commuting weekly to the UK until he can get permanent employment here. The applicant's fiancée is residing and employed here.
- Appellants are taking sections of the Development Plan out of context.
 - Ribbon development – the site is not located on the approach to any town or village; design of house is in keeping with the surrounding countryside; there is a large mature hedge which is 15m in height dividing the applicant's proposed house and the neighbours; and, the house will almost be invisible from the road.

- House is not “dropped into the landscape” and taking account of the size of the site and the enormous scale of the existing hedgerows the scale of the house is quite small.
- The house is not visually obtrusive and a horticulturist was engaged as part of the design process.
- Considers the scale of the house suitable and the design appropriate.
- Addresses materials, finish and colour and complies with the guidelines.
- Engaged a Horticulturist to design the landscaping.

6.4. **Observations**

None

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Design and Materials
- Appropriate Assessment

7.2. Principle of Development

The site is located between Rhode and Edenderry and is outside of any identified settlement. The proposal is therefore subject to the Local Needs policy because it is identified within an area considered to be a “Pressure Area”. Policy SSP-18 defines three categories of Local Needs. With respect to the Category 1, the applicant is a person who was born within the local rural area. The definition also includes a returning emigrant seeking a permanent home in their rural area. I am satisfied that

the applicant complies with the definition detailed in Category 1, and therefore complies with “Local Needs”.

The appellant considers that the development will contribute to ribbon development. Appendix 4 of the “Sustainable Rural Housing Guidelines” provides an example of ribbon development being 5 houses located along a stretch of road frontage of 250m.

There are currently three houses along this side of the road and this will be the fourth. Whilst the example provided in the Guidelines refers to 5 houses, I agree with the appellant that this is only a guideline and that in certain circumstances a fourth house could be deemed to constitute ribbon development and accordingly, this should be considered.

Along this stretch of road there are a small number of single houses on both sides. However, these houses are standalone and there are lengthy greenbelts between each dwelling. There is no other cluster of houses that could be deemed to constitute ribbon development. I agree with the applicant that while their area is identified as an area under pressure in the Plan, this particular townland has not shown pressure in the past, as evidenced by the relatively low level of housing. Furthermore, the applicant states that the existing road frontage of the three houses is only 110m long and this house will extend road frontage to 150m.

In conclusion, I accept that the applicant does comply with the Local Needs criteria for areas under pressure. I am also satisfied that the proposed house in this area would not constitute ribbon development. Therefore, this proposal is in accordance with the policies and objectives of the Development Plan.

7.2.1. Design and Materials

Policy SSP-17 considers Rural Housing Design. It is the Council policy to promote quality design, appropriate scale, form, informed siting, quality materials and finishes.

The two houses immediately to the east of the site are single storey bungalow dwellings and the third house is a storey and a half dormer style dwelling. The proposed dwelling is stated as being a dormer dwelling 8.99m high to the roof apex. The site is currently surrounded by a very high hedgerow. The hedgerow facing the public road will have to be removed to achieve the sightlines to the west (as stated on the drawing). There is also a 13m wide entrance proposed. Therefore, the house will be visible from the public road. Notwithstanding this, I am satisfied that the existing hedge between this proposal and the dwelling to the east is sufficiently high to limit any comparisons between the two designs. The proposal is also located at a sufficient distance of 42.5m from the front of the road, to avoid being visually dominant by comparison.

With respect to materials, the existing three dwellings in the immediate vicinity are of a simple finish of rendered walls and slate roof. Along the R441 Road, either side of the proposal, there are a number of standalone houses which are two storey and make use of different materials and designs. This design proposes the use of a natural stone external finish and a natural slate roof. I am satisfied that there is a mix of designs in the vicinity and with the existence of the high hedgerow between this house and its neighbours, the proposed development would not seriously injure the visual amenities of the area and will be in accordance with the Development Plan policies.

7.3. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted permission, subject to conditions, for the reasons and considerations as set out below.

Reasons and Considerations

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 27th of May 2016 and the 7th June 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

4. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (pe < 10)" – Environmental Protection Agency, 2009.

(b) Treated effluent from the septic tank shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (pe < 10)" – Environmental Protection Agency, 2009.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

5. The borehole shall be provided in accordance with the plans and particulars submitted to the planning authority on the 27th May 2016.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

6. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

7. The landscaping scheme submitted to the planning authority on the 27th May 2016 shall be carried out within the first planting season following substantial completion of the external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of two years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Ciara Kellett
Senior Planning Inspector

18th October 2016

Appendix A: Location Maps and Photographs.