



An  
Bord  
Pleanála

## Inspector's Report PL09.247087

### Development

Demolition of existing domestic garage, kennels & dog enclosure. The construction of a 4 bedroom single storey dwelling, with ground floor living area & attic storage overhead, the formation of a new vehicular access, the installation of a packaged wastewater treatment plant and polishing filter, relocation of an existing post and rail fence to form a new site boundary, connection to the public mains water supply together with all other ancillary works to serve the proposed dwelling. The application also includes the removal of an existing sewerage treatment system and the installation of a new packaged treatment system, including polishing filter along with a new connection to the public mains water supply all to serve the existing dwelling.

### Address

Coole, Newtown, Eadestown, Naas Co  
Kildare

### Planning Authority

Kildare County Council.

<b>Planning Authority Reg. Ref.</b>	16/186
<b>Applicant(s)</b>	Robert Catterson.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Appellant(s)</b>	Thomas & Anne Devaney
<b>Date of Site Inspection</b>	7 <sup>th</sup> November 2016
<b>Inspector</b>	Brid Maxwell

## 1.0 **Site Location and Description**

- 1.1. The appeal has a stated area of .462 hectares and comprises an established dwelling site within the townland of Newtown, Eadestown Co Kildare. The site is located within an established ribbon of dwellings in a rural area approximately 3.8km to the east of Naas Town Centre and 2.5km north of Punchestown Racecourse. The site is accessed by way of a local county road and which runs north of the Regional Road R410 (linking Naas and Blessington) from ‘Beggars End” crossroads. The appeal site is occupied by a dormer type dwelling with detached garage and is maturely landscaped. Dwellings in the vicinity are predominantly single storey. The area is general rural and agricultural in use with significant one off rural housing demonstrating significant urban generated development pressure.
- 1.2. Photographs of appeal site and vicinity are provided in the appendices to this report.

## 2.0 **Proposed Development**

- 2.1. The proposal as set out seeks permission for demolition of existing domestic garage, kennels and dog enclosure and for the construction of a 4 bedroom single storey dwelling, with ground floor living area and attic storage overhead, the formation of a new vehicular access, the installation of a packaged wastewater treatment plant and polishing filter, relocation of an existing post and rail fence to form a new site boundary and a connection to the public mains water supply together with all other ancillary works to serve the proposed dwelling. The application also includes the removal of an existing sewerage treatment system and the installation of a new packaged treatment system, including polishing filter along with a new connection to the public mains water supply all to serve the existing dwelling.
- 2.2. The proposed dwelling is a single storey bungalow design with blue black slate roof finish and nap plaster finish to walls. The dwelling is set back in line with the established adjacent dwellings. The proposal also provides for the decommissioning of the existing private well and the existing septic tank serving the established dwelling on site with provision for two individual packaged wastewater treatment systems to serve the individual dwellings. flexible

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1 By order dated 19/7/2018 Kildare County Council issued notification of decision to grant permission subject to 25 conditions which included the following

- Condition 2. First occupancy for a minimum period of 7 years by Robert Catterson.
- Condition 25 Development Contribution of €10,000 in accordance with the Council's Development Contribution Scheme.

#### **3.2. Planning Authority Reports**

- Water Services, Roads Transportation and Public Safety, Environmental Health Officer and Environment Section Reports indicate no objection subject to conditions.
- Area Engineer's initial report sought details in respect of proposed sightlines.
- Planner's report asserts that the application demonstrate a rural housing need and the proposal is an infill site in an established area of ribbon development
- Following a request for additional information in respect of sightlines, and landscaping proposals and an invitation of comments in respect of historical sterilisation agreement the final report of area planner recommends permission subject to conditions.

#### **3.3. Other Technical Reports**

3.3.1 Irish Water report indicates no objection subject to conditions.

#### **3.4. Third Party Observations**

3.4.1 Submission by the third party appellants to the planning authority objects on grounds of history of speculative development. Applicant has no functional need to live in the

area. Proposal constitutes ribbon development, gives rise to proliferation of septic tanks, flooding, and potential traffic hazard.

#### **4.0 Planning History**

- 13/799 Permission granted to Brian and Bridged Catterson for fenced structures, two detached dog kennels and dog run.
- 07/1660 Refusal of permission for construction of a 3 bed bungalow proprietary effluent treatment system and associated works. Refusal on grounds of ribbon development in a rural area, suburbanisation.
- PL09.20220 02/2272 Permission to retain dormer floor development, the conversion of garage space to bedroom conservatory to side of house five velux windows to rear, detached domestic garage and associated works.
- 1503/97 Permission granted to Michael Soames for bungalow and septic tank.

#### **5.0 Policy Context**

##### **5.1 Sustainable Rural Housing Guidelines 2005**

The National Spatial Strategy identified categories of rural area types requiring differing settlement policies for rural housing. The Sustainable Rural Housing Guidelines issued by the Department of the Environment Heritage and Local Government, April 2005 are based on the presumption that people who are part of the rural community should be facilitated by the planning system in all rural areas. The site of the proposed development is located in an area identified as an Area under Strong Urban Influence as defined in the guidelines. The key development objective in relation to these types of areas should be to on the one hand to facilitate the housing requirements of the rural community as identified by the Planning Authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

## **5.2 Development Plan**

5.2.1 The Kildare County Development Plan 2011-2017 refers.

- Chapter 4. Housing 4.11 Rural Housing Provision. The site is within Rural Housing Policy Zone 1. Table 4.3 and Map 4.1 refers.
- RH7 Prohibition of speculative development.
- RH12 Ribbon Development.
- Chapter 16 Rural Design Guidelines.
- Chapter 19 Development Management Guidelines.

## **6.0 Natural Heritage Designations**

- Red Bog SAC and pNHA approximately 4.7km to the southwest of the site.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1 The appeal is submitted by Thomas and Anne Devaney, residents of the adjoining dwelling site to the north. Grounds of appeal can be summarised as follows:

- History of speculative development on this small landholding within an area which is under considerable pressure for one off rural development.
- Proposal will result in the extension of an existing pattern of ribbon development.
- Applicant does not reside at the site and works in Dublin therefore functional need to reside at this location is not established.
- Previous reasons for refusal remain valid.
- National guidelines in regard to ribbon development have not changed.
- Use of term infill not relevant in a rural setting.
- Clarification required in regard to proposed effluent treatment system.

- No reference to ongoing flooding problems on the public road fronting the site. Potential for flooding of percolation area to occur,
- Existing septic tank relocated from the south of the dwelling as it did not work.
- Assimilative capacity of the area to cater for this level of development has not been addressed.
- Road fronting the site floods on a regular basis resulting in the road being impassable at times as demonstrated in photographs and letter from Kildare County Council.
- Sightlines inadequate and development will result in a traffic hazard.
- Proposal to alter site levels which is inappropriate and was not factored into effluent treatment system design.
- Proposal will result in suburbanisation of this area.
- Potential for dwelling to be developed into its attic.
- Application fails to put forward a credible case to justify the proposed development.

## 7.2. **Planning Authority Response**

7.2.1 The Planning Authority notes the appeal comments and asserts that the proposed development is in compliance with the rural housing policy of the Kildare County Development Plan 2011-2017.

## 7.3. **First Party Response**

7.3.1 The response by Vincent JP Farry and Co Limited, Planning and Development Consultants responds as follows:

- Land Sterilisation agreements outdated tool. Application should be judged on its merit.

- Applicant qualifies in terms of local rural need
- Proposal does not involve excessive site cutting
- The proposal will complete the form of housing which has been permitted in this area for forty years.
- Refute allegations that an additional treatment system will cause water pollution. Water test results attached demonstrate that existing systems have not caused water pollution.
- Flooding on local road is overstated. It is limited to occasional periods of prolonged rainfall and does not originate on the appeal site.
- Soakpits proposed on site will address issue of surface water.
- Proposed entrance will provide adequate sightline visibility.

## 8.0 **Assessment**

8.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues for consideration in the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Settlement Strategy
- Traffic safety, Ribbon development & Impact on the amenities of the area
- Wastewater Treatment
- Appropriate Assessment

## 8.2 **Settlement Strategy**

8.2.1 As regards the issue of a previous land sterilisation agreement in respect of the landholding, I note that no evidence of an agreement in place has been provided on an appeal file. In any event having regard to the provisions of the rural housing guidelines I consider that it appropriate to consider the merits of the proposed



development in terms of the proper planning and sustainable development of the area. As outlined above, the site falls within an area indicated as an area under significant urban pressure in the rural housing guidelines. In terms of the Kildare County Development Plan 2011-2017 the site falls within Rural Housing Policy Zone 1 described within the plan as populated areas with higher levels of environmental sensitivity and significant development pressure. Eligibility or “local need” criteria are defined at table 4.2 and in my view are quite malleable. The application would appear to comply with the local need criteria as defined within the plan on the basis of bullet 2 as follows:

*“Persons who have grown up or spent substantial periods of their lives (12 years) living in the area, who have moved away and who now wish to return to reside near to, or to care for, immediate family members seeking to build on the family landholding or on a site within 5km of the original family home. Immediate family members are defined as mother, father, son, daughter, brother, sister or guardian.”*

8.2.2 Notwithstanding compliance with local need criteria as set out within the County Development Plan I would tend to concur with the third party appellant that a functional need to reside at this location has not been demonstrated and would question whether the proposal could be deemed to constitute rural generated housing.

### **8.3 Traffic safety, ribbon development and impact on the amenities of the area.**

8.3.1 The proposed access to the site is onto a local road at a point where there are multiple one off house site entrances. In my view a further entrance at this location would interfere with the free flow of traffic on and compromise the level of service and carrying capacity of the local road and would fail to protect the public investment in the local road network. In this regard the development would be contrary to the proper planning and sustainable development of the area.

8.3.2 The Sustainable Rural Housing Guidelines for Planning Authorities recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure, as well as visual impacts. The guidelines state that ribbon development will exhibit characteristics

such as 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 proposed development would clearly exacerbate the existing pattern of ribbon development (9 dwellings within 250m road frontage) contrary to the provisions of the sustainable rural housing guidelines. I have noted the provision within the Kildare County Development Plan for “special regard” to the circumstances of immediate family members of the landowner on single infill sites in a line of existing dwellings with 5 or more houses alongside 250m of road frontage. I consider that the term ‘infill’ is inappropriate in the context of rural land not zoned for residential development. I do not consider that the current appeal should be viewed as an exceptional need in terms of the Rural Housing Guidelines.

8.3.3 As regards the visual impact of the proposed development, the site not prominent in the local area is well screened and the visual impact will not be significant. I would note that the creation of an additional entrance will further exacerbate the suburban character of the area and would be detrimental to rural amenity in this regard.

#### **8.4 Wastewater Treatment**

8.4.1 The site characterisation forms submitted with the application details site suitability investigations carried out on 26<sup>th</sup> January 2016, where a trial holes and T test holes were excavated on the site. Neither water nor bedrock were encountered in the trial holes excavated to 2.1m and 2.4m (proposed and existing dwelling respectively) Soil structure was described on respect of proposed house site as topsoil leading to sandy silt at 0.4m with fine sand at 1.4m. A T value of 22.36 and P value of 13 was determined. The existing dwelling site trial hole describes the soil profile as topsoil to 0.4m leading to sandy silt and silt clay from 1m with fine sand at 1.7m, A t value of 20.36 and P value of 15.72 is reported. It is proposed to provide two proprietary effluent treatment systems with polishing filter.

8.4.2 Whilst the provision for on-site treatment might be technically feasible in terms of the setback requirements of the EPA Code of Practice “Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10), I consider that the issue of

multiple treatment systems is of significant concern. On this basis I consider that the proposal would be prejudicial to public health.

## **8.5 Appropriate Assessment**

8.5.1 As regards the issue of Appropriate Assessment having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to the nearest European 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.

## **8.6 Conclusion**

8.6.1 The proposed development would extend an established pattern of ribbon development, would give rise to visual intrusion in a rural area, would give rise to negative impact on a local road, would result in an excessive concentration of effluent treatment systems in a limited area and would be contrary to the to the proper planning and sustainable development of the area.

## **8.7 RECOMMENDATION**

8.7.1 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. I recommend that planning permission be refused for the following reasons and considerations.

## **REASONS AND CONSIDERATIONS**

1. It is considered that taken in conjunction with existing and permitted development in the vicinity, the proposed development would constitute an excessive density of suburban type ribbon development in a rural area, would injure the amenities of this rural area and give rise to an excessive concentration of effluent disposal systems and multiple entrances onto the local road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell

Planning Inspector

17<sup>th</sup> November 2016