



An  
Bord  
Pleanála

## Inspector's Report PL17.247266

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<b>Development</b>	House, detached garage/fuel store, vehicular entrance, installation of an effluent treatment system/polishing filter and all associated site works.
<b>Location</b>	Kilwarden, Kinnegad, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	TA160410
<b>Applicant</b>	Jody Quirke
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	GRANT
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	John Shaw
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> December 2016
<b>Inspector</b>	Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated site area of 0.39 ha, is located on the northern side of the R161 Regional Road, c. 3.5km east of Kinnegad in Co. Meath. The appeal site is rectangular in shape and comprises the south western corner of a large, relatively level field. The site is currently in agricultural use.
- 1.2. The site is bounded by a post and wire fence and drainage ditch to the west and a hedgerow and ditch to the south, while its north and east boundaries are undefined. An existing agricultural entrance is located in the south western corner of the site. There are a number of one-off rural houses in the immediate vicinity, including one to the south, facing the appeal site (the appellant's property), one c. 70m to the west and one c. 45m to the east.
- 1.3. Clonard River (also known as Kilwarden River), a tributary of the River Boyne, is located c. 500m to the south of the appeal site, and Mount Hevey Bog, a Special Area of Conservation, is located c. 400m to the north.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a storey and half detached house (279 sq m) with detached garage/fuel store (107 sq m), vehicular entrance, effluent treatment system and polishing filter.
- 2.2. The proposed house has a height of 8.3m and features a mix of stone cladding and render to its elevations, with a natural slate pitched roof. It comprises a central block with projecting elements to the front elevation and smaller annexes to the side.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Meath County Council decided to grant permission. The following Conditions are noted:
  - C4: External finish to be natural stone or render, not brick or reconstituted stone.

- C5: Landscaping plan to be submitted.
- C8/C9: Surface water to be collected and disposed of via soakpits or adjacent watercourses.
- C13: Seven-year occupation condition/s47 agreement.

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

3.2.1. The Planning Officer's report can be summarised as follows:

- Site is within a Strong Rural Area.
- No protected structures or archaeological sites.
- NIS is not necessary due to scale and nature of development and lack of pathway to Mount Hevey Bog SAC.
- Applicant has submitted sufficient documentation to demonstrate rural housing need.
- Design has been amended on foot of Request for Further Information. Planning Authority is satisfied that revised proposal is in accordance with Meath Rural House Design Guide.
- No further submissions received following revised public notices.
- Development is acceptable.

3.2.2. Other Technical Reports

- Road Design Office: No objection.

### 3.3. **Prescribed Bodies**

3.3.1. None.

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

3.4.1. One third party observation was made by the appellant. He subsequently made an additional observation following the submission of Further Information and revised public notices. The issues raised were generally the same as the appeal.

## 4.0 Planning History

### 4.1. Appeal Site

- 4.1.1. **Reg. Ref. 01/356:** Permission refused to Bernadette Flynn for a bungalow for three reasons: More suitable sites on family landholding; traffic hazard on Regional Road; and no change in circumstances since previous refusal.
- 4.1.2. **Reg. Ref. 00/371:** Permission refused to Gerry Ayres for a bungalow for two reasons: contrary to CDP policies of restricting development in rural areas; and traffic hazard on Regional Road.

### 4.2. Adjacent Sites

- 4.2.1. **Reg. Ref. 90/937:** Permission granted for house immediately to west of appeal site. This permission was not implemented.

## 5.0 Policy Context

### 5.1. Meath County Development Plan 2013-2019

- 5.1.1. The appeal site is located on unzoned lands, in an area designated as being a “strong rural area” in the Development Plan. Policies RD POL4 and 5 relate to this type of rural area and seek to consolidate and sustain the stability of the rural population and to facilitate the housing requirements of the rural community, while directing urban-generated housing to zoned lands in towns and villages.
- 5.1.2. Section 10.4 sets out the criteria under which applicants can demonstrate their local housing need. In this regard, persons local to an area are considered to include “persons who have spent substantial periods of their lives, living in rural area as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside”.
- 5.1.3. Section 10.5.1 sets out the ‘Development Assessment Criteria’ which the Planning Authority will take into account. This includes housing need as defined in Section

10.4, local circumstances, suitability of the site, the degree to which the proposal represents infill development and the history of development on the original landholding. Where there is history of speculative sale of sites, permission may be refused.

- 5.1.4. Section 10.5.2 sets out the Planning Authority's criteria for determining whether a development proposal will exacerbate ribbon development, which is defined 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 250 metres of road frontage". In assessing whether a given proposal will exacerbate such ribbon development, the Planning Authority will consider: the type of rural area; the circumstances of the applicant; the degree to which the proposal might be considered infill development; and the degree to which the proposal would cause existing ribbon development to be extended or coalesce.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. A third party appeal has been submitted by John Shaw. The issues raised in the appeal can be summarised as follows:
- Scale, height and form of proposed development is not in keeping with the character of the area.
  - Height would be visually obtrusive and would appear over-dominant in this location.
  - Design is discordant and will result in overlooking, loss of privacy and will be visually overbearing.
  - Site is located in South West Lowlands character area, which is identified as being of High Sensitivity and High Value.
  - Removal of trees will diminish character of the area.
  - Site is at risk of flooding and proposed development increases risk of flooding on appellant's land. Appeal site drains via a culvert under the road into a drain on the appellant's land.

- Soak pits for surface water will not be adequate due to high water table and compaction of ground. No infiltration test undertaken.
- Surface water will drain into Kilwarden River and into River Boyne which has Lamprey eel population (Annex II species).
- Appellant's second observation was not referenced in Planning Officer's report.
- Two previous refusals on traffic grounds. No improvements or alterations have taken place since.
- Separation distance between well and polishing filter does not meet EPA requirements. Risk of contamination of spring water due to high water table and drains.

## 6.2. **Applicant Response**

6.2.1. No response to the appeal is on file.

## 6.3. **Planning Authority Response**

6.3.1. The Planning Authority is satisfied that all matters outlined in the appeal were considered in the course of its assessment.

## 6.4. **Observations**

6.4.1. No submissions/observations are on file from any other party.

## 7.0 **Assessment**

7.1. I consider that the key issues in determining this appeal are as follows:

- Compliance with Rural Housing Policy.
- Ribbon Development/One-Off Rural Housing.
- Landscape and Visual impact.
- Residential amenity.
- Flood risk.

- Traffic.
- Wastewater treatment.
- Appropriate Assessment.

## 7.2. Compliance with Rural Housing Policy

- 7.2.1. As noted above, the site is within an area designated as a 'strong rural area', albeit that is situated c. 3.5km east of Kinnegad and c. 2km north of the M4 Motorway. It is the Policy of the Planning Authority in such areas to facilitate the housing requirements of the rural community while directing urban generated housing to residentially zoned lands in towns and villages.
- 7.2.2. The appeal site and adjoining lands are owned by the applicant's father, and he currently resides in the family home, which is located c. 1.2km to the east of the site. I note that this is the third planning application for a house on the appeal site, and that the previous two applications were made by two different applicants.
- 7.2.3. The applicant submitted a significant amount of documentation with the planning application and on foot of a request for additional information to demonstrate his links to the rural community. This included bank letters, utility bills, various official correspondence and letters from his former school and GAA club.
- 7.2.4. Taking this information into account, I consider that the applicant has satisfied the relevant provisions of section 10.4 of the Development Plan and has demonstrated that he is an established member of the rural community. Notwithstanding this, I note that the applicant's stated place of work is Tara Mines in Navan (c. 40km away), while his partner works in Dublin 2 (c. 65km away).
- 7.2.5. While the applicant has demonstrated compliance with the Development Plan requirements for local need I note that, as stated in both the Development Plan and the Rural Housing Guidelines for Planning Authorities, the acceptability of any individual housing proposal is subject to compliance with normal planning criteria.

## 7.3. Ribbon Development/One-Off Rural Housing

- 7.3.1. The Meath County Development Plan 2013-2019 seeks to control ribbon development, consolidate development into existing towns and villages and limit

urban sprawl, while facilitating rural housing in certain cases, subject to normal planning criteria.

- 7.3.2. Ribbon development, as defined in the Development Plan and Rural Housing Guidelines for Planning Authorities, is considered to occur where there is a high density of almost continuous road frontage type development, for example where five or more houses exist on any one side of a given 250 metres of road frontage.
- 7.3.3. The R161 is characterised by a significant level of one-off housing between Kinnegad to the west and the Hill of Down to the east. In the immediate vicinity there are two houses within 200m to the west of the site and two houses within 150m to the south of the site. While this development in the immediate vicinity of the appeal site would not currently meet the definition of ribbon development, there are larger areas of ribbon development located to the east and west. Having regard to the presence of this existing ribbon development, the relatively recent construction of the appellant's house and the house to the west, the planning history of the appeal site and this planning application, it is clear that there is a significant level of development pressure in the area that is perhaps beyond that typically envisaged for a 'strong rural area'.
- 7.3.4. Having regard to the proximity of the appeal site to Kinnegad and the M4 Motorway, I consider that the proposed development would contribute to the encroachment of random rural development in the area, would encourage and exacerbate the developing pattern of ribbon development and urban sprawl along the busy R161 Regional Road and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. I therefore recommend that planning permission be refused on these grounds.

#### **7.4. Landscape and Visual Impact**

- 7.4.1. The appellant contends that the design of the proposed house is not in keeping with the character of the area and would be visually obtrusive and over-dominant and would impair views. The appellant further contends that the removal of trees will diminish the character of the area.



- 7.4.2. The appeal site is located in the 'South West Lowlands' landscape character area, a landscape identified as having a high value and medium sensitivity with a low capacity for one-off houses.
- 7.4.3. As a result of the topography and field divisions in the area, there are expansive open views along the northern side of the R161. The western boundary of the appeal site currently comprises a post and wire fence, while southern boundary is a closely cropped hedgerow with a number of mature trees, both of which contribute to the open character of the landscape.
- 7.4.4. While I consider the design of the proposed house itself to be broadly consistent with the design principles set out in the Meath Rural House Design Guide, I consider that the removal of existing hedgerows and the cutting off of a corner of the field for a house surrounded by extensive hard landscaping, will serve to fragment the open character of this lowlands area and will negatively impact on what is identified as being a landscape of high value and sensitivity.
- 7.4.5. I consider that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area and would set an undesirable precedent for other such development in the vicinity. I therefore recommend that planning permission be refused on these grounds.

## 7.5. Residential Amenity

- 7.5.1. The appellant states that the proposed development will result in a loss of privacy, overlooking and an overbearing impact. Having reviewed the drawings and inspected the site, I am satisfied that no significant impacts on residential amenity would arise as a result of the proposed development. The proposed house would be set back from the public road by 42m and would be located more than 100m from the appellant's property. Having regard to the separation distances involved, I do not consider it likely that the proposed development would significantly impact on the residential amenities enjoyed by the appellant or other properties in the vicinity.

## **7.6. Flood Risk**

- 7.6.1. The appellant contends that the proposed development is at risk of flooding, and that it will increase the flood risk on lower lying lands to the south as a result of surface water run-off. The appellant notes that the appeal site currently drains to a culvert which passes under the R161, into a drain on the appellant's property and ultimately into the Kilwarden River. Photographs were submitted of fluvial flooding to the south of the appellant's property.
- 7.6.2. The appeal site is not indicated as being at risk of flooding on the OPW's Preliminary Flood Risk Assessment maps or in the Strategic Flood Risk Assessment for the County. With regard to the potential for increased flood risk downgradient of the appeal site, I do not consider that the proposed development would result in any significantly increased risk, since the lands already drain in this direction and the proposed development is relatively small in scale. However, if the Board is minded to grant permission, surface water management could be addressed by way of a Condition requiring agreement with the Planning Authority on the incorporation of SuDS measures to reduce run-off.

## **7.7. Traffic**

- 7.7.1. The appellant has noted that the two previous refusals on the appeal site related to traffic and public safety issues, and states that there have been no improvements or alterations to the public road in the interim.
- 7.7.2. The R161 is straight, level and in good condition in the vicinity of the appeal site. The speed limit in this area is 80km/hr, and a Site Plan submitted with the application indicates that sightlines of 160m in each direction can be achieved with the proposed recessed entrance, albeit that this will require the removal of hedgerows. I also note that the Roads Design Office had no objection to the proposed development. Having regard to all of the above, I am satisfied that the proposed development would not result in a traffic hazard or public safety concern.

## 7.8. Wastewater Treatment

- 7.8.1. A wastewater treatment system and soil polishing filter are proposed and the appellant contends that this will result in contamination of spring water in the area.
- 7.8.2. A Site Characterisation Report was submitted with the application, which indicates that the soil in the area consists of well-drained mineral soil. The area is designated as a 'Locally Important' (Lm) aquifer and is of 'High' vulnerability. The groundwater protection response is 'R1', acceptable subject to normal good practice. I note that groundwater flow is south to south east towards Kilwarden River. The Report notes that due to the well-drained nature of the soil, groundwater and wells would be the main target if the design and separation distances are not adequate.
- 7.8.3. There are a number of wells identified in the vicinity of the appeal site, with the closest being a livestock well c. 45m to the south of the treatment system. The proposed well on the appeal site will be 60m to the south. All of the wells identified are downgradient of the treatment system.
- 7.8.4. The trial hole encountered topsoil loam to a depth of 0.5m, with sandy clay to 1.0m and gravelly sandy silt/clay below. No bedrock was encountered, while the water table was encountered at a depth of 1.3m with no evidence of mottling. With regard to percolation characteristics, a T value of 28.67 minutes/25mm and a P value of 15.11 minutes/25mm were recorded. These results meet the requirements of the EPA's Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses. On foot of the test results, a partially raised soil polishing filter with an area of 45 sq m is proposed.
- 7.8.5. On the basis of the information submitted by the applicant as part of the Site Characterisation Report, I am satisfied that the appeal site is suitable for the installation of a secondary wastewater treatment system discharging to ground, and that adequate separation distances from wells have been provided.

## 7.9. Appropriate Assessment

- 7.9.1. The closest Natura 2000 site to the appeal site is Mount Hevey Bog SAC (Site Code 002342), which is located c. 400m to the north. The River Boyne and River

Blackwater SPA (Site Code 004232) and SAC (Site Code 002299) is also located c. 5.7km to the east.

7.9.2. The qualifying interests of the Mount Hevey Bog SAC are as follows:

- Active raised bogs (7110).
- Degraded raised bogs still capable of natural regeneration (7120).
- Depressions on peat substrates of the Rhynchosporion (7150).

The Conservation Objectives for the SAC are primarily to restore the favourable condition of the bog through a series of specified attributes and targets.

7.9.3. The SAC is located upgradient from the appeal site, and therefore there will be no surface water or groundwater flow from the appeal site towards the bog. As there is no pathway between the source (proposed house) and receptor (SAC), I do not consider that the proposed development would be likely to have a significant effect on the integrity of the Mount Hevey Bog SAC.

7.9.4. With regard to the River Boyne and River Blackwater SPA/SAC, I note that surface water from the appeal site has the potential to drain to the Kilwarden River, which ultimately connects to the River Boyne, although the location of the SPA and SAC is several kilometres further downstream. Having regard to the nature and scale of the proposed development, the characteristics of the appeal site and the distance from the River Boyne SAC and SPA, I do not consider that the development would be likely to have a significant effect on the integrity of the River Boyne and River Blackwater SPA/SAC.

7.9.5. In conclusion, 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 any European sites and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## 8.0 Recommendation

8.1. I recommend that planning permission should be refused for the reasons set out below.

## 9.0 Reasons and Considerations

1. 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, having regard to the proximity of the appeal site to Kinnegad and the M4 Motorway, it is considered that the proposed development would contribute to the encroachment of random rural development in the area, would encourage and exacerbate the developing pattern of ribbon development along the R161 Regional Road and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure.
2. The site of the proposed development is located within a landscape identified in the current Development Plan for the area as having a high value and a low capacity to accommodate one-off housing. Having regard to the topography of the site, the extensive driveway and hard surfacing and the removal of the front boundary hedgerow, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Niall Haverty  
Planning Inspector

23<sup>rd</sup> December 2016