



An
Bord
Pleanála

Inspector's Report

PL09.247402

Development	House, Garage/ Fuel Store, Install Proprietary Wastewater Treatment system, entrance at Coolree, Johnstownbridge, Co. Kildare
Planning Authority	Kildare Co. Co.
Planning Authority Reg. Ref.	16/575
Applicant(s)	Claire Dixon
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Appellant(s)	Colin Coleman
Observer(s)	None
Date of Site Inspection	30/01/2017
Inspector	Caryn Coogan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located in a rural area in north Co. Kildare, south of Enfield. It is located a few kilometres south east of Johnstown Bridge at a junction of two country roads serving a large agricultural hinterland and a number of one off houses. The land is flat, and there are a number of existing dwellings located adjacent to the subject site.
- 1.2 The site is a large hexagonal shaped site, 0.2625Ha, with an eastern orientation. There is a mature hedgerow along the eastern and southern site boundaries. There is also a stream along the southern site boundary. There is a roadside boundary to the east and north-east. There is a dwelling houses on the opposite side of the road to the east and one to the south.
- 1.3 The site is accessed from the minor road along the eastern site boundary. Sightlines are poor to the north coming out onto the Dunfirth Road north of the site.

2.0 PROPOSED DEVELOPMENT

2.1 The proposed development is for a :

- Two storey Dwelling
- Wastewater treatment system
- Detached garage
- Entrance

3.0 PLANNING AUTHORITY DECISION

3.1 DECISION

Kildare Co. Co. granted planning permission for the subject dwelling subject to 27No. conditions.

3.2 TECHNICAL REPORTS

Area Engineer: No Objection

Environment: Additional Information required

Transportation: No objection

Water Services: No objection

Planning Report:

- The applicant is the landowner's daughter and was born and reared in the area. Based on all the evidence submitted it is accepted that the applicant complies with Local Needs Criteria No. 2
- The house design is acceptable
- There was **FURTHER INFORMATION** was requested regarding the site characteristic form, a reduction in the finished floor level and to include the adjoining dwelling to the east. A response was received on 23rd of August 2016. The Environment Section considered in detail the information regarding the treatment system. Permission was recommended.

3.3 THIRD PARTY SUBMISSIONS

Mr. Colin Coleman objected to the proposed development on the grounds that:

- Potential traffic hazard
- Percolation area liable to flooding
- Position of nearest dwelling was not indicated

4.0 PLANNING HISTORY

4.1 No relevant planning history relating to the subject site.

5.0 POLICY CONTEXT

5.1 National Policy

Sustainable Rural Housing – Guidelines for Planning Authorities 2005, issued by the DoEHLG in 2005 identify that Kildare falls within the areas under strong urban influence and also within the stronger rural areas. The guidelines advise that only people who are part of the rural community are facilitated for one-off housing and that there is careful management of the rural environs of major urban areas to ensure their orderly development in the future.

The DoEHLG *Circular Letter SP5/08 (2007)* provides advice and guidance in relation to local need and occupancy conditions. This is included in the Appendix of this report and the relevant extract is as follows:

Development plan policies based on section 3.2.3 (“Rural generated housing”) of the Sustainable Rural Housing Guidelines should continue to apply, in that persons who are an intrinsic part of the rural community, or persons working full-time in rural areas, should be favourably considered in relation to rural housing. Notwithstanding the above, a bone fide

applicant who may not already live in the area, nor have family connections there or be engaged in a particular employment or business classified within the local needs criteria, should be given due consideration within the proper planning and sustainable development objectives for the area subject to the following considerations:

such applicants may reasonably be required to satisfy the planning authority of their commitment to operate a full-time business from their proposed home in a rural area, as part of their planning application, in order, for example, to discourage commuting to towns or cities; that they outline how their business will contribute to and enhance the rural community; and

that they satisfy the planning authority that the nature of their employment or business is compatible with those specified in the local needs criteria for rural areas so as to discourage applicants whose business is not location-dependent (e.g. telesales or telemarketing).

5.2 Development Plan

Kildare County Development Plan 2011-2017

Chapter 4.11 Rural Housing Provision.

The development plan policies have been written and had regard to The National Spatial Strategy 2002-2020, Regional planning Guidelines 2010-2022, Sustainable Rural Housing Guidelines 2005, and Circular SP5/08.

4.11.5 Rural Policy Zones

Table 4.3 Schedules of Local Need

Rural Housing Policy Zone 1 Rural Housing Policy Zone 2

• Persons engaged full time in agriculture (including commercial bloodstock / horticulture), wishing to build on their own landholding and who can demonstrate that they have been engaged in farming at that location for a continuous period of over 7 years, prior to making the application.

Relevant Criteria No. 2

• **Persons who have grown up or spent substantial periods of their lives, (12 years), living in the area, as members of the rural community, seeking to build on family landholding or on a site within 5 km of the family home, and currently living in the area.**

• 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 5 km of the original family home. Immediate family members are defined as mother, father, son, daughter,

brother, sister or guardian.

- Persons employed full time in farming (agriculture, bloodstock etc) in the locality, within 5 km of the site, where they need to reside close to their employment and have been engaged in such employment, at that location, for a continuous period of over 7 years, prior to making the application.

- Persons who can satisfy the Planning Authority of their commitment to operate a small scale, full time business from their proposed home in the rural area and that the business will contribute to and enhance the rural community and that the nature of such business/employment is more appropriate to a rural location.

4.12 Rural Housing Policies

In particular:

RH 4: To manage the development of one off housing in conjunction with the rural housing policy zone map (Map 4.1) and accompanying Schedules of Local Need (Table 4.3). Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application,

including a separate statement by the applicant on the need to reside in the area. Applicants must demonstrate, depending on the location of the site that they comply with one of the categories outlined in Table 4.3.

RH 5: To ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations including the following:

- The location and design of a new dwelling shall take account of and integrate appropriately with its physical surroundings and the natural and cultural heritage of the area. Development shall have regard to Chapter 16, Rural Design Guidelines.
- The protection of features that contribute to local attractiveness including; landscape features, historic and archaeological landscapes, water bodies, ridges, skylines, topographical features, geological features and important views and prospects.
- 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.
- The ability of a site in an unserviced area to accommodate an on-site waste water disposal system in accordance with the EPA Code of

Practice for Wastewater Treatment Systems for Single Houses (2009), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period;

- The ability of a site in an unserved area to accommodate an appropriate on-site surface water management system in accordance with the policies of the Greater Dublin Strategic Drainage Study (2005), in particular those of Sustainable urban Drainage Systems (SuDS); and

- The need to comply with the requirements of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* published by the Department of the Environment, Heritage and Local Government in November 2009

rural **RH11** To control the level of piecemeal and haphazard development of areas close to urban centres and settlements having regard to potential impacts on:

- The orderly and efficient development of newly developing areas on the edges of towns and villages;
- The future provision of infrastructure such as roads and electricity lines; and
- The potential to undermine the viability of urban public transport due to low density development.

6.0 THE APPEALS

6.1 Mr. Colin Coleman has appealed the decision to grant permission for the dwelling house at Coolree. The following are his grounds of appeal:

- The proposed site is subject to flooding. There is a potential risk that the treatment unit will contaminate the ditch that acts like a swale during the winter months. The proposed percolation area is within 5metres of this swale.
- The higher water table level makes the area unsuitable for drainage. The location of the percolation appears to be closer to Mr. Coleman's dwelling than the proposed house, the issue of wells has not been addressed adequately.
- The position of the uncapped well on the site has not been identified on the drawings. The original drawings had not shown the adjoining house, and then following further information, the dwelling was included but not the well.
- The distance from the applicants proposed percolation area and the uncapped well is 40metres.

6.2 RESPONSES

Planning Authority: There was no further comment from the planning authority regarding the appeal content.

Applicants Response:

- Mr. Coleman's house and the proposed dwelling are separated by the road.
- There is cattle drinking on the watercourse and its not a swale as suggested. The watercourse forms part of the catchment of the Boyne/ Blackwater drainage system. Mr. Coleman piped the water course without the consent of the OPW, and during periods of heavy rainfall, the flow of the watercourse is impeded by Mr. Coleman's closure of the open water course. The subject site is not subject to flooding and it is not identified at risk on the flood risk maps.
- The water table is clearly indicated on the site cross section A-A on the site layout plan. The water table is 1.7metres below ground level. The site characterization form illustrates how the site is suitable, and the system was approved by the relevant departments within Kildare Co. Co.
- The applicant was not aware of a well at Mr. Coleman's property as his house and the area are served by public water supply.
- It is proposed to re-locate the percolation area away from the well indicated in the appeal submission. The applicant will be connecting to the public mains and not using a private well.

Appellant's Response to Applicants Appeal Submission

- The reference the work been carried to the stream is grossly inaccurate and should be removed from public record.
- Despite the revised locations of the proposed wastewater treatment plant, the applicant has failed to demonstrate how they will mitigate the environmental risks to his property.

7.0 ASSESSMENT

7.1 Having read the planning application file, the appeal documents and visited the site I intend examining this appeal under the following headings:

- Compliance with Development Plan Policy

- General Pattern of Development in the Area
- Sewage Treatment

7.2 Compliance with Development Plan Policy

The planning authority deemed the applicant, Ms Claire Dixon, to meet with the Local Needs Criteria outlines in Table 4.3 of Section 4.11.3 the Kildare County Development Plan 2011-2017. It should be noted the applicants claim to comply with Item 2 of the criteria:

(12) *Persons who have grown up or spent substantial periods of their lives, (years), living in the area, as members of the rural community, seeking to build on family landholding or on a site within 5 km of the family home, and currently living in the area.*

In support of compliance with Item 2 it was submitted by the applicant that she resides 600metres form the site in the family home. The land is owned by her father and she works 30km form the site in Dublin. She was born and reared in the area and continues to lives there and is part of the local community. The applicant has made a substantive case on the planning file to comply with Criteria 2 and this was accepted by Kildare Co. Co. An occupancy condition should be applied in this instance should the Board decide to uphold the planning authority's decision to grant.

7.3 General Pattern of Development in the Area

The site is located at a junction of two roads where there are 3No. existing dwellings. Furthermore, the general area is low lying agricultural land with a large number of one off housing scattered along the roadside boundaries. According to the file, the area is served by the local water supply.

The design of the dwelling is a two storey vernacular style dwelling with some stone facing features. The dwelling is a four bedroomed unit with a detached garage. The dwelling is sited south within a large field area, there are mature hedged to absorb the visual impact of the dwelling into the landscape and act as a back drop to the development. Overall the proposed development is in keeping with the general pattern of development in the area.

7.4 Sewage Treatment

The third party appellant who lives on the opposite side of the road to the subject site has claimed on appeal the site is subject to flooding. This claim has been made without any technical data, proof or substantiating evidence. The site is not identified on any flood risk mapping. The appellant's dwelling is at the similar finished floor level to the current proposal, therefore if the area is liable to flooding, the appellant should be

able to demonstrate this. There is a stream along the southern site boundary which acts a land drain to the surrounding area.

The appellant is concerned that the effluent from the proposed treatment plant will contaminate surrounding wells by virtue of proximity and the high water table. The underlying soil is grey brown podzolic soil which has good drainage capabilities. The high water table is mentioned in the Site Characterisation form. The area is located within an area of High/Moderate Aquifer vulnerability. The water table is 1.7metres below ground level. Although the area is served by a public water supply, a point the appellant failed to address in his second submission to the Board when stated on appeal by the applicant, the proposed percolation area has been relocated 40metres from the well within Mr. Coleman's curtilage. The treated effluent will be discharged to a polishing filter.

7.5 Having regard to EPA Guidelines for Single House Sewage Treatment Systems, Table B.3 Recommended Distance Between a Receptor and a percolation or polishing filter, the recommended minimum distance from a domestic well with no gradient is 25metres. The proposed distance is 40metres, which is in line with Environment Section report on the planning file. The design of the proposed system is in line with the detailed soil tests carried out on the subject site, in line with the EPA Guidelines. The option to carry out site improvements might be considered in circumstances where a high water table is a problem. The conditions that give rise to a high water table are site specific; these include topography, nature of soils, bedrock and outfalls. Detailed design procedures appropriate for site improvement works are available in drainage manuals. The water table 1.7metres is acceptable given the excellent percolative properties of the underlying soil.

7.6 **Appropriate Assessment**

The appeal site is approximately 9km from the Ballynafagh Lake SAC and Ballynafagh Bog SAC. The River Boyne and River Blackwater SAC is 11Km north of the site. The Planning Authority carried out a screening for Appropriate Assessment on 27th of July 2016. Having regard to the nature and scale of the development and the relative distance of the site from the SAC site notwithstanding the direct hydrology link via the stream to the south of the site to the R. Boyne, I am satisfied that the proposed development would not be likely to have any significant effect either individually or in combination with other plans or projects on the European site.

8.0 **RECOMMENDATION**

Overall, the development is unacceptable in principle on the subject site, and the planning authority's decision to grant planning permission for the proposed development should be upheld by the Board.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Kildare County Development Plan, to the pattern of development in the area and to the design and location of the proposed two storey dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would be an acceptable location for a dwelling within the applicant's family land holding, would be acceptable in terms of sewage treatment and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

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 particulars submitted on the 23rd of August 2016 and on appeal date stamped 8th of November 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 [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

3. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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 visual amenity.

4.
 - (1) The proposed house shall have a Finished Floor level 80.2metres.
 - (2) The external finishes of the dwelling shall consist of natural stone indigenous to the area, wet dash or napp plaster. The use of brick or reconstituted stone shall not be permitted.
 - (3) The roof shall be finished in slate blue/black or slate grey in colour. Orange or red colour roofing or materials other than slates shall not be used.
 - (4) Throughout the development, all doors and windows shall be of sustainable materials of hardwood timber and/or aluminium in both construction and finish. The use of uPVC shall not be permitted in this rural location.

Reason: In the interest of visual amenity and orderly development.

5. Existing hedgerows, trees and shrubs on site shall be retained, preserved and maintained, except at the proposed entrance.

Reason: To protect the rural character of the area.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. Details of vehicular access, including road side surface water drainage, shall be in accordance with the requirements of the planning authority.

Reason: In the interest of traffic safety.

9. 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 (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

10. 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.

Caryn Coogan

Planning Inspector

20/02/2017

