



An
Bord
Pleanála

Inspector's Report PL09.248196.

Development	Permission for the development including removal of a condition and the construction of a single storey dwelling.
Location	Roseberry, Newbridge, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	16/1332.
Applicant(s)	Eanna Geraghty.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Eanna Geraghty.
Observer(s)	None.
Date of Site Inspection	28 th June 2017.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is against the decision of the planning authority to refuse permission for a dwelling behind an existing rural dwelling – a condition is on the lands from a previous permission restricting the number of dwellings on the site. The applicant seeks to remove this and obtain permission for a new house.

2.0 Site Location and Description

- 2.1. Roseberry townland is located just north of the town of Newbridge in an area characterised by flat lands intersected with drainage ditches – much of it seemed to have been bog or marsh up to the late 19th Century. Roseberry is to the north-west of the mainline railway, which has to a large extent has formed the north and western extent of Newbridge. Roseberry is characterised by a mix of agricultural land and bog, with near continuous strips of single house development on most of the third class roads extending from the small number of bridges over the railway.
- 2.2. The appeal site is located at the northern end of Rosebery, about 3-3.5 km from the centre of Newbridge, and outside the functional town boundaries. It is on a 80kph limit road known as the Ring of Roseberry, which is a country third class road lacking footpaths running north-west from the built up area of Newbridge. The road is mostly developed on the southern side with a ribbon of bungalow dwellings on half acre sites, while the northern side of the road is marked by a deep drainage ditch and open flat countryside.
- 2.3. The site, with an area given as 0.3660 hectares, and part of a landholding approximately twice this size, is a field to the rear (south) of a dwelling fronting the main road and includes a narrow lane between that dwelling and an adjoining one to the east. The landholding extends further back to another similar plot along a track. The site is flat and in meadow, and bounded by ditches and hedges, with the rear garden of the family dwelling marking the northern boundary.

3.0 Proposed Development

The proposed development is described on the site notice as follows:

- a) *The removal of condition no.9 of previously approved planning permission file reference no. 73/232 which required lands to be sterilised from future residential development;*
- b) *The construction of a single storey dwelling with a floor area of 211.1 sqm;*
- c) *The provision of a new on-site wastewater treatment system and percolation area;*
- d) *The provision of a new dual access vehicular entrance that will serve both the proposed new dwelling and the applicant's parent's existing dwelling. The portion of the dual access entrance serving the new dwelling will replace an existing agricultural entrance; and,*
- e) *All associated site works.*

4.0 **Planning Authority Decision**

4.1. **Decision**

The planning authority refused for one reason – in summary, that it is contrary to policies RH5 and RH11 of the CDP as it represents haphazard and piecemeal development in rural areas.

4.2. **Planning Authority Reports**

4.2.1. **Planning Reports**

Outlines a long and complex planning history – notes that condition number 9, relating to the family home north-west of the site, sterilizes 5 acres of land and 150 yards of road frontage. Notes a series of refusals (including on appeal) for a dwelling on the lands (one grant of permission, although not implemented).

Notes long stated concerns about overdevelopment along this road.

Recommends a refusal of permission.

4.2.2. **Other Technical Reports**

Water Services: Recommends conditions.

Appropriate Assessment Screening Report: Concludes that although the site is within 1km of Mouds Bog SAC, no impacts are likely on the conservation objectives or overall integrity of any Natura 2000 site.

4.3. **Prescribed Bodies**

Irish Water: Standard response.

4.4. **Third Party Observations**

Suzanne Doyle of Tully, Kildare, wrote in support of the application.

Sean Ó'Feargháil, TD, wrote to support the application.

5.0 **Planning History**

In 2015 the Board upheld the decision of the planning authority (**14/580**) to refuse permission to Aoife Geraghty for a dwelling on the landholding (just south of the current appeal site). The reasons given for refusal relate to traffic hazard and impact on a Natura 2000 site, Mouds Bog SAC (**PL09.243943**).

Permission **73-232** granted permission for a dwelling (the family home) on the site subject to a condition (no.9) sterilizing the entire 5 acres of land and 150 yards of frontage.

In recent years there have been a series of refusals for applications to build a dwelling or delete condition 9, including **06-449, 15-1124, 05-2310, 05-2308, 05-2309, 13-658** and **14-162**. There is one grant of permission **07-1812**, for Aoife Geraghty for a dwelling. A later application (**12-1004**), was refused permission for the extension of this permission.

I note a recent Board decision on an appeal against the decision to refuse permission for a retention of a dwelling several hundred metres north on Rosebery Lane – the Board refused permission for four reasons (**PL09.244338**)

6.0 Policy Context

6.1. Development Plan

The site is in open countryside considered to be ‘under strong urban influence’ in an area in which rural dwelling policy applies.

6.2. Natural Heritage Designations

The site is just over 500 metres from Mouds Bog SAC, site code 002331.

7.0 The Appeal

7.1. Grounds of Appeal

A very detailed appeal addressing wide aspects of the planning history and proposals were submitted. Key points are as follows:

- It is noted that in the previous refusal on appeal the Board did not accept the issue of overdevelopment of the area.
- It is argued that the policies cited by the planning authority are not consistent and in line with principles set out in the National Spatial Strategy and the Sustainable Rural Housing Guidelines and other Development Plan policies.
- It is noted that the planning authority had no problem with the design of the dwelling.
- Previous Board decision to grants for rural dwellings in Kildare – PL09.224721 and PL09.24795 and others – are quoted in reference to an argument that there is sufficient capacity in the area for additional dwellings.
- The planning authority opinion that the area is deficient in services is questioned given the proximity of the site to the town.
- It is noted that there is no specific policy against backland development and that the Council has stated that it will be assessed on a case by case basis.

7.2. Planning Authority Response

The planning authority refers the Board to the planners report on file.

7.3. Observations

None

8.0 Assessment

8.1. Principle of Development

The appeal site is outside the bounds of the town of Newbridge and is in a rural area as defined in the Development Plan. The planning authority consider it to be an area 'under strong urban pressure' with regard to Sustainable Rural Housing Guidelines criteria, and I would concur with this assessment. In such areas there is a strong presumption against planning permission except for those applicants who qualify under local needs criteria. The applicant is considered to qualify under these criteria.

The planning authority decided to refuse, citing two specific policies, RH5 and RH11. These state:

RH5: *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 unserviced 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.*

RH11: *To control the level of piecemeal and haphazard development of rural 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.*

The planning authority considered that the proposed development does not comply with RH4 and RH11 with particular regard to the pattern of development, specifically that it represents haphazard and piecemeal development close to an urban area.

I note that with one exception there is a long history of the planning authority refusing permission on the site, and that the original permission for the family dwelling had a sterilization condition. I am not aware of any changes to policy, national and local, that would justify overturning a sterilization condition such as this - the original reasons obviously still apply, and the overall context has not changed, except insofar as far more one-off houses have been built along this road. I further note that the Board has recently refused permission for a dwelling on the landholding, and that in another recent Board decision retention for a dwelling north of the site was also refused.

I would consider that while the applicant does qualify for housing need exemption, having regard to both policies set out in the development plan, and the planning history of the lands and the area, there is a general presumption both in terms of

policy and in planning history against developing backland developments along this stretch of road, which has already been subject to what appears a very high degree of random and ribbon development.

8.2. Pattern of development

The appeal site is accessed via a narrow farm lane between two dwellings. There is an mostly continuous ribbon of one-off houses on the south side of the road for several hundred metres. There is only a very small number of dwellings on the opposite side, most probably because of the location of deep land drains running along the north-eastern side of the road. There is one large farmstead set back from the road, and further north-west of the site there are a small number of recently built bungalows at the end of a track. Otherwise, development is entirely of standard road-frontage houses. This area lacks normal services such as footpaths and sewerage and is not part of the zoned development area of the town. As such I would concur with the view of the planning authority that permitting development of this nature would represent haphazard development and would set an undesirable precedent and as such would be contrary to the policy objectives set out in the section above.

8.3. Design and visual impact

The proposed dwelling is modern and low key and the house would be largely hidden behind existing garden hedges and trees. The area is not subject to any landscape designations and is generally quite flat, with some smaller hills in the wider area.

8.4. Traffic safety

The site is on a third class road which takes a somewhat unusual set of sharp turns with straight sections, presumably from its origin as a road following road drains along the edge of the Moud Bog. The site is accessed via a narrow track which joins the road just 40 metre south of a distinct turn in the road, with very poor visibility at this point. I note a small memorial at this turn indicating there may have been a road fatality at this point – the RSA website indicates a single car fatality in the 80kph zone on the road in 2007. The Board refused the previous appeal on this site (**PL09.243943**) for reasons relating to traffic safety. Although not raised as an issue by the planning authority, I would consider that the access here is inherently

dangerous due to the poor visibility looking left from the junction. While the road here is narrow (the limit is 80kph) I noted relatively high traffic speeds during my site visit, presumably due to the straight stretches of road. The applicants submitted a traffic safety report along with revised plans which essentially takes off a very large chunk of the front garden of the existing house to create a 50 metre sightline. I would consider that this would be very unsightly and an unacceptable way of creating what in any event I would consider to be a very substandard provision – while the Development Plan is not specific on sightlines in rural roads I would consider 90 metres to be the acceptable minimum in these circumstances.

I would conclude that creating a new vehicular access at the track at this point would represent a traffic hazard and I would recommend that the previous reason for refusal be repeated, although the Board may wish to consider this to be a new issue.

8.5. Pollution

The site is to be served by a proprietary wastewater treatment system. Site suitability assessment on file indicates that it is on highly permeable sandy subsoil with the watertable 1.1 metres from the surface, although I note the identification of higher 'mottling', indicating a higher seasonal groundwater level, possibly above the maximum level in the guidelines. I also note that the on-site assessment states that there is no watercourse/stream within 250 metres – in fact the deep drain on the road boundary (which has free flowing water) is within 60 metres of the site.

The site would seem to be just about within the criteria set out in EPA Guidelines, although I note the very high proliferation of such units in the vicinity, and would be concerned at the implications of adding yet another one on such a marginal site. I note that this was not raised as an issue in this or in previous appeals, so I would not recommend a refusal for this reason.

8.6. Flooding

The site is in lands which have been extensively drained. It appears to be at the edge of what would have been the historical extent of Mouds Bog. There is a very deep land drain on the opposite side of the road. There are no records of flooding on or near the site.

8.7. Appropriate assessment

The site is just over 500 metres from Mouds Bog, an SAC (site code 002331). The features of interest are:

Active raised bogs [7110]

Degraded raised bogs still capable of natural regeneration [7120]

Depressions on peat substrates of the Rhynchosporion [7150]

The appellants submitted an AA Screening Report (the planning authority also did a screening), both of which indicated no identified impacts, subject to appropriate mitigation measures on the proposed wastewater treatment system (as the site appears to be in hydraulic continuity with the bog). I note that there is no information on file as to the potential cumulative impacts from the many wastewater treatment systems in the vicinity.

The Board has previously refused permission for a dwelling on the landholding for reasons of its possible impact on the SAC and I note the Direction in that decision noted concerns about the absence of an NIS. The reports submitted by the applicant don't actually provide much more solid scientific evidence about pathways and existing impacts, but does provide an overview of the conservation objectives of the site. While I would have some doubts about the issue of pathways between the site and the in-combination effect on water quality of so many wastewater treatment units in the area, having regard to the small size of the proposed development I would consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 002331, or any other European site, in view of the site's Conservation Objectives.

9.0 Recommendation

I recommend that the Board uphold the reason for refusal by the planning authority. I also recommend that the Board refuse for traffic safety reasons, although I note that this may be considered a 'new issue'.

10.0 Reasons and Considerations

1. It is considered that the proposed development constitutes haphazard and piecemeal development of a rural area close to an urban centre and would set an undesirable precedent for further such developments and would thus be contrary to policy objectives RH5 and RH11 of the Kildare County Development Plan 2011-2017, which are considered reasonable and consistent with the Sustainable Rural Housing Development Guidelines 2005. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Notwithstanding the proposal to increase the sightline to the north-west of the site to 50 metres, it is considered that this is still substandard for the nature of this road close to an urban area. The proposed development would result in a traffic hazard due to the restricted visibility to the west of the entrance due to the poor alignment of the road. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Philip Davis
Planning Inspector

24th July 2017