



An
Bord
Pleanála

Inspector's Report PL17.248213

Development	Construction of a dwelling, wastewater treatment system and associated site works.
Location	Sicity, Duleek, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	AA/170002.
Applicant	Lisa Clarke.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party v. Refusal
Appellant(s)	Lisa Clarke.
Observer(s)	None.
Date of Site Inspection	9 th May, 2017.
Inspector	Paul Caprani.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	5
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	6
7.0 Appeal Responses.....	7
8.0 Development Plan Provision.....	8
9.0 Planning Assessment	9
10.0 Conclusions and Recommendation.....	12
11.0 Appropriate Assessment	12
12.0 Decision	12
13.0 Reasons and Considerations	13

1.0 Introduction

PL17.248213 relates to a first party appeal against Meath County Council's notification to refuse planning permission for the construction of a dwellinghouse and wastewater treatment system and all associated works at a site between Kentstown and Duleek in County Meath. Planning permission was refused on the grounds that the proposed dwellinghouse represents haphazard non-integrated backland development and would establish an undesirable precedent.

2.0 Site Location and Description

- 2.1. The appeal site is located on a local county road which runs northwards from the R150. The R150 links the villages of Duleek and Kentstown in County Meath. The appeal site is located on the western side of the local road approximately 1 kilometre north of its junction with the R150. The R150 links up with the N2 National Primary Route approximately 1.2 kilometres to the west of its junction with the local road. The site is located approximately 5 kilometres west of the village of Duleek and 5 kilometres to the east of Kentstown.
- 2.2. The local road serving the site is a relatively narrow third class road 4 to 5 metres in width. There are no footpaths or public lighting serving the subject road the 80 km/h limit applies. The site itself comprises of a grassed area to the rear of a single-storey dwellinghouse which fronts onto the local road. The wooden fence boundary around the existing dwellinghouse is set back from the edge of the public road. A tarmacadamed driveway runs along the northern boundary of the site and serves a summer house/log cabin type development and associated shed to the rear. The log cabin is located to the rear of the existing house. The remainder of the site to the rear accommodates a grassed rear garden surrounded by low hedgerows. It is within this area that the proposed dwellinghouse is to be located.
- 2.3. In terms of surrounding land uses, the lands to the north, south and west of the site comprise of a large field under grass. There is no other development contiguous to the site with the exception of the summer house and the main dwellinghouse both of which are located to the east of the proposed dwellinghouse. A small cottage is

located on the western side of the road further north of the site. There are no dwellings in close proximity to the south of the site. A large open field is located on lands on the eastern side of the access road directly opposite the site.

2.4. The area of the site is stated as 0.453 hectares.

3.0 **Proposed Development**

3.1. Planning permission is sought for a single-storey dwellinghouse comprising of three bedrooms and associated living area. The area of the dwelling is stated as 203 square metres.

3.2. The proposed dwelling is L-shaped and is to be located centrally within the rear garden to the back of the existing house. The proposed dwellinghouse is to be located c.77 metres back from the front boundary of the site and the existing vehicular entrance to the north of the existing house serving the existing log cabin is to be extended to the front of the dwellinghouse and along the northern elevation to provide additional parking.

3.3. The dwellinghouse itself rises to a maximum ridge height of 5.8 metres. It incorporates a natural stone finish on the front elevation and a slate roof. The remainder of the external finish to the sides and rear comprise of a nap plaster finish. A proposed patio area is located on the south-western side of the dwelling. A proprietary wastewater treatment plant is to be located to the rear of the dwellinghouse with a raised percolation area covering an area of approximately 100 square metres.

4.0 **Planning Authority Decision**

4.1. **Decision**

Meath County Council refused planning permission for the proposed development for a single reason which is set out in full below.

The proposed development by virtue of its layout represents haphazard, non-integrated backland development having regard to the location of the application site vis-à-vis the public road and adjoining property. The proposed development would

establish an undesirable precedent in this rural area and would be contrary to the proper planning and sustainable development of the area.

4.2. Planning Authority Reports

- 4.2.1. The planning application form submitted with the application indicates that the proposed source of water supply is via the public mains. The form also indicates that the land is owned by the applicant's parents.
- 4.2.2. A site characterisation form submitted with the application indicates that the site is located in an area with a groundwater protection response of R1. It is also located in an area designated for groundwater protection. The aquifer underlying the site is designated as a poor aquifer. The trial hole indicates that no bedrock was encountered and the depth of the water table was measured at 1.8 metres below groundwater level. Percolation tests yielded a T test result of 69.61 and a P test of 49. It is proposed to install a package wastewater treatment system and polishing filter.
- 4.2.3. A covering letter was submitted by the applicant which includes photographs indicating similar type developments which were granted permission in the area around the subject site.
- 4.2.4. The planner's report notes that the applicant has satisfied the local housing need criteria under a previous grant of planning permission AA/150238 (see planning history below).
- 4.2.5. The planner's report notes that in the first application on site (Reg. Ref. AA/140783) the proposed dwellinghouse was located to the back of the site where planning permission was refused. Under a subsequent application (Reg. Ref. AA/150238) the siting was revised and the proposed dwelling was situated alongside the existing house near the public road. Planning permission was granted in this instance. The applicant is now seeking to relocate the dwelling to the rear of the lands. It is considered that the relocation of the dwelling to the rear of the lands has already been refused planning permission on the grounds that it is haphazard non-integrated backland development. There is no justification as to why the development needs to be located on a backland site and therefore it is recommended that the current application should be refused on the grounds that it would set an undesirable

precedent. It is therefore recommended that planning permission be refused for the proposed development.

5.0 Planning History

5.1. Details of four planning applications are attached in a pouch to the rear of the file.

Under NA/901861 planning permission was refused on the subject site for the construction of a dormer bungalow and effluent treatment system. The dwelling was located to the rear of the site. Permission was refused for three reasons relating to haphazard non-integrated backland development, the suitability of the site for the disposal of effluent and development plan policies in relation to rural housing. This decision was dated 3rd February, 2010.

Under NA/70428 planning permission was refused for a similar type development for three reasons relating to the suitability of the site for an on-site effluent treatment system, the proposal represents non-integrated backland development and the bulk and design of the proposed development in this rural area is deemed to be unacceptable.

Under AA/140783 planning permission was refused for a dwelling to the rear of the subject site for two reasons relating to haphazard non-integrated backland development and development plan policy in respect of rural housing.

Under AA/150238 Meath County Council granted planning permission for a dwellinghouse to the front of the site adjacent to the existing dwellinghouse to the front of the site. Planning permission was granted subject to 17 conditions.

Condition No. 17 required that the log cabin on site shall be removed within 18 months of the grant of this permission unless planning permission for its retention is obtained.

Reason: In the interest of planning control.

6.0 Grounds of Appeal

6.1. An appeal was lodged on behalf of the applicant by Michael Halligan, Planning Consultant. The appeal notes the report of the Planning Officer and notes that there was no objection from the Water Services Department or the Transportation

Department. The Planning Authority has accepted that in all other respects, the development meets the requirements of the development plan. It is also noted that there were no third party objections to the application. It is suggested that the Planning Officer in the assessment appears to have been overly influenced by the fact that an extant permission for a house on an adjacent location within this site is permitted. This is not a justification for refusing permission. The proposal should be judged on its own merits. The applicant considers that the proposed revised location would be more protective of residential amenities of the proposed and existing house and would also not be injurious to the general amenities of the area. The applicant is also concerned that the Planning Authority is being inconsistent as permission has been granted for backland houses in the immediate vicinity. The current proposal provides a greater degree of separation and privacy particularly in relation to the south facing sit out area near the south-western elevation of the site.

- 6.2. It is also noted that the design is generally in accordance with the Meath Rural Housing Design Guide and the siting is acceptable. The proposed location setback from the road on the screened part of the site would screen the house from public view whereas the roadside location would leave the house entirely open to public view.
- 6.3. There is no inherent justification for blanket prohibition on backland development and there is no mention of backland development in the County Development Plan.
- 6.4. Finally, reference is made to a number of precedents at Station Road, Duleek, Garlow Cross and Fener Ardcah.
- 6.5. In conclusion the Board are requested to adopt a pragmatic approach and permit the applicant to relocate the dwelling to the rear of the house as proposed.

7.0 **Appeal Responses**

- 7.1. The Planning Authority has submitted the following response to the grounds of appeal. It is stated that the dwelling to the rear of the site has been refused permission three times. One of these reasons for refusal was in relation to the layout of the development which represented haphazard non-integrated backland development. The applicant has been permitted to construct a dwelling in a more suitable location and there is no justification in planning terms as to why the

development needs to be located on a backland site as opposed to the extant permission. The reason for refusal still stands and it has not been addressed under the current appeal. It is reiterated that the proposal represents haphazard non-integrated backland development and would set an undesirable precedent. On this basis it is recommended that the appeal be rejected.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Meath County Development Plan 2013 – 2019. Section 10.7 relates to rural residential development. It states that it is essential that care is exercised in the siting and design of new buildings to ensure that they can integrate harmoniously with the surroundings thereby protect the amenity and character of the countryside in County Meath. Meath County Council has prepared Design Guidelines for rural houses and it is the policy of the Council to implement these guidelines through the development management process. The guidelines are included as Appendix 15 of the Development Plan.
- 8.2. In relation to Development Plan Policy, RDPOL9 seeks to require that all applications for rural houses comply with the Meath Rural House Design Guidelines. It is noted that poor siting and design carries with it a greater potential for adverse impact on the visual amenity and rural character. Particular care is therefore required in site selection so that new buildings will integrate into these landscapes.
- 8.3. In relation to the Meath Rural House Design Guidelines, Section 3.1 of the guidelines relate to the siting of new dwellings. The guidelines highlight the need to consider “building lines in the relationship to neighbouring and adjoining buildings”, (page 20). Furthermore, it states that development should avoid building in backlands behind existing dwellings, development of this type can compromise the private residential amenity of existing and established dwellings (page 22).

9.0 Planning Assessment

- 9.1. I have read the entire contents of the file, visited the site and have had particular regard to the Planning Authority's sole reason for refusal and the grounds of appeal in respect of this reason for refusal.
- 9.2. Meath County Council issued notification to refuse planning permission for a single reason on the grounds that the proposed development would constitute haphazard non-integrated backland development and would therefore set an undesirable precedent for similar type development in this rural area.
- 9.3. I note the extant permission on site for a dwellinghouse and the Planning Authority's acceptance of the applicant's bona fides in terms of meeting the local need criteria as set out in the Development Plan. Having regard to the extant permission on the site for the appellant in question, I do not consider it appropriate or necessary to revisit the issue of local housing need for the purposes of determining the application. I am also satisfied having inspected the site and having regard to the site dimensions and the information contained in the site characterisation form submitted with the application, that the subject site is suitable to accommodate an on-site wastewater treatment system. I therefore consider that the Board can restrict its deliberation to the issues raised in the reason for refusal namely whether or not the proposal represents haphazard non-integrated backland development.
- 9.4. The grounds of appeal argue that the proposed development fully respects development plan policy in relation to the siting of rural dwellings. I do not consider this to be the case. Section 10.7 of the Development Plan specifically relates to siting and design considerations for rural residential development. Policy RDPOL9 states that it is the policy of Meath County Council to require all applications for rural houses to comply with the Meath Rural House Design Guide. This design guide is clear and unambiguous in stating that backland development is to be considered to be in accordance with good design practice. The guidelines explicitly advise applicants to avoid building in backlands behind existing dwellings. The current proposal proposes exactly that and therefore in my opinion it is clear that the proposal does not accord with the policies and provisions in the Meath County Development Plan as they relate to the design and siting of rural residential dwellings.

- 9.5. The grounds of appeal also argue that the Planning Authority have been overly influenced by the fact that there is an extant permission on the subject site. The Board will be aware from the planning history that planning permission for a dwellinghouse was granted on the subject site under AA/150238. This dwellinghouse was located in a more forward position on site adjacent to the existing dwelling to the south. I do not consider it can be reasonably argued that the Planning Authority have been overly influenced by the fact that a planning permission exists on the subject site. It is clear from the planning history that a number of planning applications for development to the rear of the site were refused planning permission precisely on the grounds that the development represented haphazard non-integrated backland development. I consider the Planning Authority rather than being unduly influenced by the extant permission are applying a very consistent approach in respect of development on the subject land ensuring that any development that takes place is located to the front of the site and not to the rear which as already stated would be contrary to development plan policy in relation to the siting of rural houses.
- 9.6. With regard to the impact on amenity and privacy, the grounds of appeal argue that the proposed development which is located further away from the existing house will ensure better levels of amenity and privacy between the dwellings in question. In the case of the current application I do not consider that the proposed development will give rise to significant amenity problems in terms of impact on privacy. The gable ends of the dwellings under the extant planning permission do not directly face each other but are located at an angle. Furthermore, the northern gable end of the existing dwelling for the most part incorporates a blank frontage. This will reduce the impact in terms of overlooking. Any issues in relation to residential amenity and privacy can be appropriately addressed by way of boundary treatment between the two dwellings. I am therefore satisfied that privacy issues can be appropriately addressed through appropriate landscaping. The propensity for better privacy through increased separation distances would not in my view justify a grant of planning permission for the haphazard backland development before the Board.
- 9.7. In relation to haphazard non-integrated development, I would agree with the conclusions of the Planning Authority that the construction of a dwellinghouse to the immediate north of the existing dwellinghouse but located almost 80 metres back from the public road would create a haphazard type development and would to lend

itself to any uniformity to the settlement pattern in the immediate area. I consider the location of a dwellinghouse so far from the local access road would result in a non-integrated and random type settlement pattern which would not contribute to the visual amenities of this rural area.

- 9.8. Lastly, the grounds of appeal raise the issue of precedent and reference is made to a number of locations where backland development has been permitted by Meath County Council. Perhaps the most important consideration in relation to this issue is the fact that there appears to be no instances of backland development within the immediate vicinity of the subject site. It can be reasonably argued therefore that if a planning permission was permitted in this instance it would set an undesirable precedent for similar type developments in the immediate vicinity. Reference is made to a backland development at Garlow Cross. The Board will note that Garlow Cross is located to the south of Navan Town and I estimate it is 12 – 15 kilometres from the subject site. Furthermore, the planner's report notes that planning permission for this house was granted in 1985 when backland development was not considered to be an important planning consideration in determining applications for rural houses. Reference is also made to backland development at Station Road, Duleek. It should be noted however that Station Road is one of the main thoroughfares leading northwards from the town of Duleek towards Donore and is located in close proximity to Duleek Business Park and directly connects with Main Street, Duleek. I note that the example referred to in the grounds of appeal is c.½ a kilometre north of the village of Duleek and is not in my view representative of a rural area as large scale suburban type housing surrounds the example referred to. The third example referred to in the grounds of appeal at Ardcaith is located c.6 kilometres to the south of Duleek and c.10 kilometres from the subject site. This again is not in the vicinity of the subject site.
- 9.9. I therefore do not consider that it has been adequately demonstrated that a precedent has been set in respect of backland development in the immediate vicinity and the lands surrounding the subject site. Furthermore, I would reiterate that the proposed development in my view contravenes the policies and provisions contained in the current Meath County Development Plan and these policies and provisions should override any precedent in relation to the location of dwellinghouses.

10.0 **Conclusions and Recommendation**

Arising from my assessment above I consider that the decision of Meath County Council should be upheld in this instance as the proposed development constitutes non-integrated haphazard backland development and such development is contrary to the guidelines contained in the Meath Rural House Design Guide. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

11.0 **Appropriate Assessment**

There are no designated areas in the vicinity of the subject site. The nearest Natura 2000 sites (are the River Boyne and River Blackwater SPA and SAC) (Site Code: 004232 and 002299 respectively) are located almost 4 kilometres to the north of the subject site. The NPWS site synopsis for the River Boyne and Blackwater indicate that the qualifying interests/features of interest are alkaline fen, alluvial woodlands, Atlantic Salmon, Otter, River Lamprey and in the case of the SPA the Kingfisher. I consider that, having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the 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.

12.0 **Decision**

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

13.0 Reasons and Considerations

The proposed development would constitute undesirable haphazard and backland development in a rural area having regard to the location of the dwellinghouse in the context of the public road and the adjoining property. The proposed development would establish an undesirable precedent in this rural area outside lands zoned for residential development and would, therefore, be contrary to the proper planning and sustainable development of the area.

P. Caprani,
Senior Planning Inspector.

26th June, 2017.