



An
Bord
Pleanála

Inspector's Report PL10.248390

Development	Permission for single storey dwelling and detached garage with septic tank and percolation area.
Location	Watree, Gowran, Co Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	16527
Applicant(s)	Brendan & Martina Byrne
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Martin Gittens & Clare Murray, Sean & Sandra Twomey. Tommy and Gillian Doyle, Catherine Doyle.
Observer(s)	None
Date of Site Inspection	4 th July 2017.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of .35¹ hectares is located within the townland of Watree approximately 400m to the southwest of Gowran village. The site is on the southern side of a local road which runs to the west of the R448. The site is a level site and adjoins to the east of an established single storey dwelling. The front roadside boundary is defined by a deciduous hedgerow and there is an evergreen hedge along the eastern boundary of the established dwelling. There are a number of dwellings in the vicinity both to the east and west of the site including a two storey cottage sited on the road frontage opposite to the northeast of the site. There are four established dwellings on the southern side of the road within a distance of 250m to the east of the site and three dwellings within 200m to the west of the site.

2.0 Proposed Development

2.1. The proposal involves permission for a single storey dwelling and detached garage with septic tank, percolation area and all associated site works. The proposed dwelling has a floor area of 262m² and its design was amended during the course of the application to the council, specifically the dwelling height was reduced from a ridge height of 6.7m to 5.6m. External finishes include natural stone to front elevation and nap plaster finish with blue black slate finish to roof. The siting of the proposed dwelling was also revised with dwelling relocated eastwards on an enlarged site in response to the Council's request for additional information. As a result of the revised house siting the location of the proposed septic tank was also relocated from the eastern side of the proposed house to the western side of the house and the single storey garage 38.75m² located to the rear south east of the dwelling. The ultimate site layout provides for the vehicular entrance directly opposite the established two storey cottage to the north-eastern extremity of the site frontage.

¹ Site area was increased from 0.3 ha to .35 ha during the course of the application to the Council specifically in response to a request for additional information.

3.0 **Planning Authority Decision**

3.1. **Decision**

Following a request for additional information and clarification of further information Kilkenny County Council notified the parties by order dated 30th March 2017 of the decision to grant permission to which 10 conditions were attached including the following:

Condition 2. Development contribution €6,440.00 in accordance with the development contribution scheme.

Condition 3. First occupancy.

Condition 4. Prior to commencement of development the applicants shall submit a signed section 47 sterilisation agreement from the landowner Tony Mullins and attach a map in blue outlining the landholding subject to a sterilisation agreement.

Condition 7. Works to achieve sightline visibility to be carried out prior to the main development.

Condition 8. Existing boundaries to be maintained and renewed. New boundaries hedged with native species.

Condition 9. External finishes.

Condition 19 Garage shall be incidental to enjoyment of dwellinghouse.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

Planner's initial report refers to ribbon development and recommends increase in site area to prevent further 'infill' development. Further information also required in relation to sightlines.

Request for additional information sought demonstration of sightlines, contiguous elevation, increase in site area and requested the applicant to address third party concerns. Clarification of additional information sought increase in site size or agreement in respect of sterilisation of the landholding.

Final report recommends permission subject to conditions.

3.2.2. Other Technical Reports

Area Engineer's report following submission of additional information indicates no objection subject to conditions.

3.3. Third Party Observations

Submission from Gittens Murray Architects Ltd., on behalf of Martin Gittens & Clare Murray, Sean & Sandra Twomey, Tommy & Gillian Doyle, Catherine Doyle, objects to the development on grounds of ribbon development, water quality. Housing need of the applicants is questioned. Roof pitch would facilitate a two storey dwelling out of character. Inaccurate site layout and details. Failure to refer to mass path. Traffic safety. Submission following further information response asserts that the site layout does not comply with EPA Guidelines. Accommodation of applicants articulated lorry of concern given proposed location of the entrance directly opposite the roadside dwelling.

4.0 Planning History

No apparent Planning history on the appeal site. There have been a number of applications in the vicinity including the following:

P09/406. Split decision permission to construct (a) a single storey domestic garage, (b) a new site entrance and driveway to service existing dwelling house and all associated site works. Permission granted for garage and refused for entrance on grounds of traffic hazard. Applicant Tony Williams. Relates to established dwellinghouse to the southwest of the appeal site.

09/512 Permission to construct a two storey dwelling and garage with effluent treatment system and percolation area and all associated site works. **14/419** Extension of duration of permission 09/512. This site is opposite to the northwest of the appeal site.

The third party appellant refer to the following previous applications in the name of Brendan and Martina Burlne at Rockfield Gowran.

- 04/619 Permission granted to Brendan Byrne to construct a two storey dwellinghouse.
- 05/1015 Permission granted to Brendan Byrne to construct a garage to the rear of dwelling.
- 15/216 Permission granted to Brendan and Martina Byrne for minor alterations to dwelling and garage.

5.0 Policy Context

5.1. Development Plan

5.1.1. The current operative plan is the Kilkenny County Development Plan 2014-2020.

Chapter 3 refers to core strategy. Figure 3.1 is a map of the county indicating the overall strategy for the county and identifies different rural areas largely corresponding with the types of rural areas identified in the NSS and the guidelines on rural housing. The stated objective of the Council's rural housing strategy is to provide for sustainable rural communities without compromising the physical, environmental, natural or heritage resources of the county.

5.1.2. The County is divided into three broad categories:

- Areas under Urban Influence
- Stronger Rural Areas
- Peripheral Areas of Population decline

The appeal site is located in an area defined as a 'areas under urban influence' in relation to which it is the Council's objective to facilitate the rural generated housing requirements of the local rural community. In areas under urban influence there is a requirement of an occupancy condition. Section 3.5.2.3 refers to Rural Generated Housing need and in relation to areas under urban influence and in stronger rural areas it is indicated that the Council will permit, subject to other planning criteria, single houses for persons where the defined stipulations are met. These include the following

- Persons who are employed full-time in rural-based activity such as farming, horticulture, forestry, bloodstock or other rural-based activity in the area in which they wish to build or whose employment is intrinsically linked to the rural area in which they wish to build such teachers in rural schools or other persons by the nature of their work have a functional need to reside permanently in the rural area close to their place of work.
- Fulltime farm owner or an immediate family member wishing to build a permanent home for their own use on family lands.
- Persons who have no family lands but who wish to build their first home on a site within 10km radius of their original family home in which they have spent a substantial and continuous part of their lives (minimum 5 years).
- Persons who were born and lived for substantial parts of their lives (minimum 3 years) in the local area and wish to return to live in the local area (returning migrants)
- A landowner who owned property prior to 14th June 2013 wishing to build a permanent home for his / her own use or a son or daughter.

Section 3.5.3 of the plan refers to Rural House Design Guidance and that a rural design guide was produced in 2008 for County Kilkenny and acts as an instrument to develop best practice in the design and siting of one-off rural housing.

Chapter 12 of the plan refers to requirements for developments and section 12.10 outlines guidance in relation to rural housing in relation to siting design and services.

5.2 National Policy. Guidelines on Sustainable Rural Housing 2005.

5.2.1 The site is located in a rural area and in the context of the Guidelines would be in an area would be defined as a rural area under strong urban influence. The guidelines refer to the need for a development plan approach and to having similar defined the rural area types as set out in the NSS within the development plan. The guidelines also indicate that planning authorities must then tailor policies that respond to the different housing requirements of both urban and rural communities and the varying characteristics of rural areas.

5.2.2 The Guidelines also differentiate between rural and urban-generated housing. The guidelines refer to rural generated housing; to sustaining and renewing rural communities; to accommodating people of a rural area in their area of origin and to tailoring policies to local circumstances. Section 3.2.3 refers to rural generated housing and there is reference to “persons who are an intrinsic part of the rural community” and also reference in this regard to “members of an established rural community, and persons who wish to return to reside near other family members or to care for elderly family members”. There is in addition reference to working in rural areas including full and part time farming. The guidelines also indicate, however, that having defined rural generated housing needs, the development plan should make very clear that subject to satisfying normal considerations the planning authority will look favourably upon an applicant’s proposal for an individual house in a rural area where that applicant comes within the development plan definition of need.

5.3 Natural Heritage Designations

The site is within 6km of the River Barrow and Nore SAC.

6.0 The Appeal

6.1. Grounds of Appeal

The third party appeal is submitted by Gittens Murray Architects, on behalf of the appellants namely Martin Gittens & Clare Murray, Sean & Sandra Twomey, Tommy & Gillian Doyle, and Catherine Doyle. Grounds of appeal are summarised as follows:

- Ribbon development and urban sprawl
- Site layout is inaccurate. A seventh dwelling would be contrary to rural setting.
- Housing needs of the applicants are questioned. They have recently sold a dwelling in Gowran and are currently residing in the locality.
- Water quality. Existing adjacent percolation area and septic tank shown in the wrong location. Revised percolation area too close to existing system.
- Note location within an area of extreme vulnerability and history of local well contamination.

- House design presents opportunity for a second story which would be out of character.
- Mass path is directly opposite and a two hundred year old roadside cottage.
- As the applicant drives an articulated truck parking is of concern.
- Application is irregular. Delayed determination and level of scrutiny of the development questionable.

6.2. Applicant Response

The first party did not respond to the appeal.

6.3. Planning Authority Response

The Planning Authority response asserts that it has no comment to make on the appeal.

7.0 Assessment

7.1 As regards issues raised by the third party appellant in relation to the Local Authority's administrative decisions in terms of its handling of the application, I note that procedural matters are beyond the remit of the appeal. From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main Planning 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

7.2 Settlement Strategy

7.2.1 As outlined above, the site falls within an area indicated as an area under strong urban influence in both the rural housing guidelines and the Kilkenny County

Development Plan. Within the Development Plan it is the Council's policy to facilitate the rural generated housing requirements of the local rural community whilst also directing urban generated rural housing to areas zoned for new housing development in the city, towns and villages.

7.2.2 Application details indicate that the applicants currently reside at 4 Lower Main Street Gowran with a parent. It is stated that both applicants have lived in a rural area of Gowran for more than 5 years and that the current residence is not suitable for needs. I note that the Planning Authority considered that the applicants comply with the rural housing need requirements. I note that the third party appellants have questioned this issue and suggest that the applicants had previously obtained permission for a dwelling which was recently sold. (Planning refs 04/619, 15/210, 05/1015 refer) The first party has not refuted this issue. On the basis of the submitted details I consider that that a permission would facilitate and encourage speculative development and would be contrary to the rural housing guidelines. I do not consider that the application demonstrates compliance with national and local policy to accommodate genuine rural generated housing need where it arises.

7.3 Traffic safety, ribbon development and impact on the amenities of the area.

7.3.1 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 contrary to the provisions of the sustainable rural housing guidelines.

7.3.2 As regards the visual impact of the proposed development, the proposed dwelling is somewhat suburban in design. However having regard to the established pattern of development in the vicinity, I consider that a refusal on visual grounds is not

warranted. An issue of significance in terms of the visual impact relates to the removal of 82m length of hedgerow which would have a significant impact on the rural and visual amenities of the area.

7.4 Wastewater Treatment

7.4.1 The site characterisation form submitted with the application details site suitability investigation carried out on 22nd July 2016, where a trial hole and T test holes were excavated on the site. Neither water nor bedrock were encountered in the trial hole excavated to 3m. Soil structure was described as clay silt Threads 4.4.3 Ribbons 110,80,40 to 0.6m leading to clay silt Threads 5.3.1 Ribbons 120,79.30. A T value of 24.36 and P Value of 45.31 was determined. The proposal is to provide a septic tank and percolation area.

7.4.2 I note that the third party appellants have questioned the accuracy of the submitted details with regard to the location of existing septic tank treatment systems and neighbouring wells and the first party did not respond to the appeal therefore did not address this issue. Based on the details provided I consider that the issue of multiple treatment systems is indeed of concern. On this basis I consider that the proposal would be prejudicial to public health. The proposed development would clearly extend an established pattern of ribbon development, 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.

7.5 Appropriate Assessment

7.5.1 As regards the issue of Appropriate Assessment having regard to the nature and scale of the development 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.

8.0 RECOMMENDATION

8.1 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. The proposed development would constitute undesirable ribbon development in a rural area outside lands zoned for residential development and would therefore be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing and permitted development in the area, the proposed development which would necessitate the removal of in excess of 80m of hedgerow, would constitute an excessive density of suburban type development in a rural area which would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities.
3. Having regard to the density of houses served by individual wastewater treatment systems in the immediate vicinity the Board is not satisfied on the basis of the information submitted in connection with this appeal, that the site can be drained satisfactorily by means of a septic tank. It is considered therefore that the proposed development would, therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Brid Maxwell
20th July 2017