



An
Bord
Pleanála

Inspector's Report PL15.248468

Development	Demolish existing house, erect new house, garage, new vehicular entrance and domestic waste water treatment plant
Location	Wyanstown, Togher, County Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	16639
Applicant(s)	Gordon & Nicola Tevlin
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Liam Coyle
Observer(s)	None
Date of Site Inspection	9 th August 2017
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The site of the proposed development has a stated area of 0.24ha. The site is generally flat, overgrown scrub and brambles and the boundaries are thick hedges of native species. There is a cement block capped wall along part of the boundary with the appellant's house which is on the adjoining site to the west. There is a drainage ditch along the southwestern boundary partially adjoining the appellant's site. There is a small unoccupied house in very poor repair on site close to the eastern boundary, there is a pedestrian entrance from this house onto the public road.
- 1.2. The public road fronting the site has no median line or footpaths and about 200m to the west this local road has a junction with the R166 which links Clogherhead to the south east of the site with Castlebellingham to the northwest.

Proposed Development

- 1.3. Demolish an existing house and erect a two storey replacement house, detached garage, well, relocated entrance, a domestic waste water treatment system and associated works at Wyanstown, Togher, County Louth.

2.0 Planning Authority Decision

2.1. Decision

The planning authority decided to grant permission subject to 12 conditions.

2.2. Planning Authority Reports

2.2.1. Planning Reports

The initial planner's report recommended seeking further information in relation to the visual impact of the proposed house, failure to incorporate the footprint of the existing houses on-site in accordance with the policy SS46 and SS47 of the county development plan, excessive scale of the house having regard to policy SS43 of the county development plan, demonstrate that provision is being made for surface water runoff.

The applicant responded to these issues and permission was granted.

2.2.2. Other Technical Reports

There are no technical reports on file.

2.3. Prescribed Bodies

There are no submissions from prescribed bodies.

2.4. Third Party Observations

The third party observations reflect, generally, the points made in the appeal.

3.0 Planning History

There is no relevant planning history.

4.0 Policy Context

4.1. Development Plan

4.2. Louth County Development Plan 2015 to 2021 is the relevant development plan for the area.

4.3. Relevant Development Plan Policies are:

4.4. **SS 40** To apply a presumption against the demolition of vernacular dwellings where restoration or adaptation is a feasible option.

4.5. **SS 41** To permit the replacement of a vernacular dwelling only where it is clearly demonstrated by way of a qualified structural engineer's report that it is not reasonably capable of being made structurally sound or otherwise improved, where the roof, all external structural walls and internal walls are substantially intact and where the building was last used as an authorised habitable dwelling.

4.6. **SS 43** To restrict the floor area of the replacement dwelling within all Development Zones to the maximum permitted floor area of the Development Zone in which it is located, or an additional 25% of the footprint of the existing house, whichever is the

greater. Where the floor area of an existing dwelling is already in excess of the Development Zone limit, the replacement dwelling shall not exceed the original floor area (as per Table 2.9).

- 4.7. **SS 44** To require that the overall size of the replacement dwelling does not have a visual impact significantly greater than the existing dwelling and that the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.
- 4.8. **SS 45** To require the replacement dwelling to incorporate the footprint of the replaced house.
- 4.9. **SS 46** To only consider a replacement dwelling which does not incorporate the footprint of the original dwelling where either;
- 4.10. (A) It is considered by the planning authority that the original dwelling position is unduly prominent and where an alternative position within the curtilage of the original dwelling would result in demonstrable landscape, heritage, access or amenity benefits,

or
- 4.11. (B) It is considered by the planning authority that the original dwelling makes an important contribution to the heritage, appearance or character of the locality and where it is demonstrated that it is not reasonably capable of being made structurally sound (for residential purposes) or otherwise improved. In this situation, retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary non-residential accommodation or a store, to form an integrated building group.
- 4.12. **SS 47** To require that access to the public road for all replacement houses will not prejudice road safety or significantly inconvenience the flow of traffic.
- 4.13. **SS 66** To require that applications for one-off dwellings in rural areas demonstrate compliance with the requirements outlined in 2.20 to 2.20.8 of this Plan.

4.14. **Natural Heritage Designations**

See AA seeing below.

5.0 The Appeal

5.1. Grounds of Appeal

- The proposed development should be subject to appropriate assessment as it may impact on Dundalk Bay SAC.
- The proposed development will overlook the rear of the appellant's boundary thereby impacting on the privacy and amenity value of his property.
- The proposed development comprises a one off rural dwelling which will impact on the visual amenity of an area designated development zone 2 in the Louth County Development Plan – 'to protect the scenic quality of the landscape and facilitate development required to sustained the existing rural community'. The proposed house will be visible from the R166.
- The proposal contravenes policies SS40 and SS41 in relation to protecting vernacular rural buildings.
- Houses in the area are characteristically bungalows or dormer houses. The scale and design of the proposed house is excessive in light of policy SS43 in relation to the additional floor area of replacement dwellings. The proposal has not had regard to the Louth Rural House Design Guidelines. The floor area, especially having regard to the implications of condition 3, will be excessive.
- Then proposed development contravenes SS46 as it does not incorporate the footprint of the original house on site.

5.2. Applicant Response

- The applicant wishes to raise a family in the countryside.
- The garage has been reduced from 70m² to 48m².
- Building in the footprint of the older house on site would prevent the provision of appropriate sightlines on the public road.
- The design of the house is relatively traditional.

- There are no windows on the gable facing the appellant's property and therefore there will be no overlooking. The garage will screen the houses from each other. Landscaping will help in this regard.
- The amendment sought in condition 3 of the planning decision are attached.

5.3. **Planning Authority Response**

- The application has been redesigned and scale reduced to 220m² to reflect policy SS43 of the county development plan.
- There are no windows on the western elevation to give rise to overlooking.
- The AA screening report concluded that the proposed development will not adversely impact on a European Site.
- The planning authority concluded that the proposed development comprises a replacement house.

5.4. **Observations**

There are no observations on file.

5.5. **Further Responses**

There are no further submissions.

6.0 **Assessment**

- 6.1. The appeal makes the case that the proposed development will negatively impact on the amenity of the appellant's property through overlooking. The applicant and planning authority make the counter argument that since there are no first floor gable windows in the proposed development such overlooking will not occur.
- 6.2. The proposed house is between 12m and 20m off the boundary with the appellant's property to the west, there are no first floor windows on the elevation and the

proposed garage does intervene between the proposed house and the appellant's property. I conclude on this basis that the proposed development will not seriously injure the amenity of the adjoining property by reason of overlooking.

- 6.3. The appeal makes the point that the proposed development will give rise to a level of general disturbance so as to negatively impact on the amenity of the adjoining property. As the proposed development comprises a domestic dwelling I conclude that the impacts arising from it will not be of such a nature as to give rise to serious injury to the amenity of the adjoining property.
- 6.4. The appeal makes the point that the application does not have regard to policies SS40 and SS41 of the county development plan.
- 6.5. SS 40 of the plan requires that there is a presumption against the demolition of vernacular dwellings where restoration or adaptation is a feasible option and SS 41 requires that qualified structural engineer certify that the original house is not reasonably capable of being made structurally sound or otherwise improved. The policies SS46 and SS47 are also relevant here as they provide for the situation where adopting the footprint of the original house would be undesirable from a visual amenity or road safety point of view.
- 6.6. The revised site layout drawing submitted to the planning authority on the 27th March 2017 (drawing number T-03-B) shows the footprint of the existing house to be demolished. Having conducted a site inspection, I conclude that the original house is in a very poor state of repair and not of special architectural heritage value and furthermore that to require the positioning of a new house in the footprint of the original house would bring it so close to the public road as to seriously negatively impact on the residential amenity of any new house. The applicant makes the case that to move the new house into the northeast corner of the site would negatively impact on the provision of appropriate sightlines on the adjoining public road. On foot of the request for further information the floor area has been reduced to 220m².
- 6.7. I conclude, notwithstanding the details of the policies in relation to replacement houses set out in the county development plan, that having regard to the particular features of this site that the proposed positioning of the new house is acceptable.

- 6.8. The appeal makes the related points that the proposed house is out of character with the pattern of housing development in the area and will be so visually prominent as to seriously injure the visual amenity of the area.
- 6.9. There is a bungalow to the east of the application site and the appellant's house adjoining the application site to the west is also single storey. Wyanstown House almost directly opposite the public road from application site is two storey, an older house to the right at the junction on the R166 about 200m west is two storey as is a very new house constructed just south of that junction on the R166. I conclude therefore that there is not a homogenous pattern of housing development in the area and that the proposed development will not be out of character with nearby houses. Furthermore, the proposed design has sufficient regard to the rural housing design advice set out in section 2.20 to 2.20.8 of the county development plan and therefore complies with policy SS66 in relation to rural house design.
- 6.10. The landform drops away somewhat to the east from the R166 and the proposed development has a ridge height of 7.8m. I conclude that the proposed development will not unreasonably impact on the visual amenity of the area.
- 6.11. The proposed development will be serviced by a domestic wastewater treatment system and potable water will be sourced from an on-site well. Surface water will be disposed of to an on-site soak away. The application was accompanied by a site assessment which indicates that the site is unsuitable for disposal of effluent from a conventional septic tank because there is mottling within 0.9m of the soil surface indicating a high/fluctuating water table. The assessment concludes that the site is suitable for the disposal of treated effluent from a proprietary treatment system to a raised polishing filter. The site layout submitted with the assessment indicates that the site is just about large enough to accommodate the septic tank, percolation area, private well and soakaway while meeting the minimum separation distances of well to percolation area and percolation area from house and site boundary required by Table 6.1 of the EPA code of practice.
- 6.12. Minimum sightlines on the public road are provided at the proposed access point which is located at the existing pedestrian access to the original house onsite. Given the lightly trafficked nature of the road I consider this arrangement is acceptable from a traffic safety point of view.

6.13. Appropriate Assessment

6.14. The appeal makes the point that proposed development should be subject to appropriate assessment given its proximity to the Dundalk SAC. The boundary of the Dundalk SAC is about 3.5kms north of the application site and there does not appear to be a direct hydrological relationship between the application site and the SAC. Having regard to the nature of the emissions likely to arise from the proposed development 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 Dundalk Bay SAC (000455) or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.0 Recommendation

7.1. Having regard to the foregoing I recommend a grant of planning permission for the reasons and considerations and in accordance with the conditions set out below.

8.0 Reasons and Considerations

The established use on this site is residential and the proposed development comprises a replacement house. It is considered, subject to compliance with the conditions set out below that the proposed development will not seriously injure the residential amenity of adjoining property, the visual amenity of the area, be prejudicial to public health or endanger road safety. The proposed development would, therefore, accord with the provisions of the Louth County Development Plan 2015 to 2021 and with the proper planning and sustainable development of the area.

9.0 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 plans and particulars lodged with the planning authority on the 27th day of March 2017, 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. The pitch of the proposed roof shall be amended to a similar symmetrical pitch on both the eastern and western elevations. Prior to commencement of development plans and particulars providing for this arrangement shall be submitted to and agreed in writing with the planning authority.

Reason: In the interests of visual and residential amenity.

3. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

4. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

5. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Treated effluent shall be discharged to a raised percolation area which shall be provided in accordance with the requirements of "Wastewater Treatment Manual – Treatment Systems for Single Houses" – Environmental Protection Agency (2009).

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. (a) The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.

(b) The exact materials, height and location of the proposed roadside boundary shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and visual amenity.

7. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Hugh Mannion
Senior Planning Inspector

11th August 2017