



An
Bord
Pleanála

Inspector's Report PL09.248732

Development	Single storey dwelling with treatment system and percolation area.
Location	Allenwood South, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	17/347
Applicant(s)	John and Lynda Browne
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First party
Appellant(s)	John and Lynda Browne
Observer(s)	None
Date of Site Inspection	31 st August 2017.
Inspector	Ciara Kellett.

1.0 Site Location and Description

The appeal site is located c.2.5km to the south-west of Allenwood Village in Co. Kildare and c.1.2km south of the Grand Canal. It is on the western side of a local tertiary road south of the R414 regional road.

There are many one-off dwellings either side of the road between the site and the R414, but there are very few dwellings further south of the site. The road serving the dwellings and subject site is narrow and in a relatively poor condition.

The site itself is stated as being 5.27Ha in area. A single storey dwelling lies to the north of the site outside of the red line area, however, the existing entrance to the site is from a laneway which runs along the northern boundary of that dwelling. The existing laneway is noted as accessing the peat storage area.

The site is bounded to the front (roadside) by a water filled ditch and mature trees. The site appears to not be in use and is significantly overgrown in parts. It is irregular in shape but with substantial road frontage and is relatively flat. A 38kV power line bisects the site. The site location map indicates that the 'Old Browne Homestead' was located to the north of the site to the rear of the existing bungalow adjacent to the laneway.

Appendix A includes maps and photos.

2.0 Proposed Development

The proposed development is for the construction of a single storey dwelling of 171sq.m in area, with treatment works and percolation area, together with all associated and ancillary site works. Public mains water can be supplied to the dwelling.

The house incorporates a barrel vaulted roof with a maximum height of 4.134m and a length of 27.6m and width of 6.88m. A new entrance is proposed to serve the dwelling off the local road, and the house will be well shielded by the existing tree cover. No information has been provided with respect to the materials proposed for the dwelling - walls or roof.

The proposed location of the house is at the northern end of the site, adjacent to the existing dwelling. The house design is long and narrow and will run perpendicular to the road.

A Bio-Crete Treatment system and percolation area is proposed south-west of the dwelling location.

The application was accompanied by a Planning Consultation Report, and a Site Characterisation Report, as well as standard drawings and documentation.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for three reasons:

- 1. The focus of the rural housing strategy of the Kildare County Development Plan 2017 – 2023, is to facilitate the legitimate needs of people with regard to the provision of one-off rural housing in the rural countryside subject to compliance with normal planning criteria including siting and design considerations. Based on the information submitted with the application, the applicants have failed to satisfy the planning authority of their compliance with the categories outlined for Rural Housing Policy Zone 1 Category 2 Applicant as set out at Table 4.3(b) of the County Development Plan. To permit the proposed development would contravene objective RO3 of the aforementioned plan which seeks to manage the provision of one-off housing for those persons who comply with Local Need and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. Taken in conjunction with the existing and permitted development in the vicinity and taking into consideration the degree of ribbon development in the area, which is defined as five or more houses alongside 250m of road frontage, it is considered that the capacity of the area to absorb any further development has been exhausted. It is also considered that the proposed development would exacerbate ribbon development in the area and therefore the proposed development would be contrary to the provisions of*

Policy RH12 of the Kildare County Development Plan 2017 – 2023 and would therefore be contrary to the proper planning and sustainable development of the area.

3. *Taken in conjunction with existing development in a rural area lacking certain public services and community facilities, the development would further contribute to an excessive density of development in a rural area which would militate against the preservation of the rural environment and would be likely to give rise to a demand for public services and community facilities, which it is not economic to provide and which are not planned. The development would contravene Policy RH10 of the Kildare County Development Plan 2017 – 2023 which seeks to control the level of piecemeal and haphazard development of rural areas and would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Notes applicants submitted a Rural Housing Application form which indicates they are natives of Kildare, they have previously been permitted a dwelling in Prosperous but did not proceed to construction, consider they comply with Category 5, Zone 1 of the CDP 2011 – 2017 (full time business etc.), applicant farms the family bogland, their current residence is 9.9km from the site and the site is owned by the applicant's father and family history of site ownership outlined.
- Considers applicant's association with the area is via grandparents and uncle, and applicant does not have any direct links to the area, and considers applicant's connections to the area are unsubstantiated.
- Notes this is the third application on the site by the current applicants (two previous refusals) and the fifth in total.

- Notes applicants indicate that they comply with Category 2(iii) which refers to persons operating a full time business from their proposed home in the rural area, with existing links to that area. Considers there is no supporting documentation other than a map showing the location of potential crop/vegetable growing areas within the site, and applicants have not made a reasonable case to substantiate their commitment to the operation of their business.
- Considers design of house acceptable.
- Refers to other reports and considers issues in relation to ribbon development and overdevelopment of the area remain valid.
- Concludes that applicants have not adequately demonstrated a local need for the dwelling and recommend permission is refused.

The decision was in accordance with the Planner's recommendation.

3.2.2. **Other Technical Reports**

- **Area Engineer:** Refers to Roads Section.
- **Transportation:** No objection subject to conditions.
- **Water Services:** No objection subject to conditions.
- **Environment:** Seeks Further Information.

3.3. **Prescribed Bodies**

- **Irish Water:** No objection.

3.4. **Third Party Observations**

No submissions received.

4.0 **Planning History**

There are a number of planning applications associated with the subject site. In summary:

- **KCC Ref. Reg. 15/502:** Permission refused in March 2016 for Michael and Maura Browne to build a bungalow and domestic garage. Four refusal reasons similar to current application refusal reasons including Local Need, Ribbon Development, and Public Services.
- **KCC Ref. Reg. 14/717:** Permission refused in October 2014 for Michael and Maura Browne to build a bungalow and domestic garage. Four refusal reasons similar to current application refusal reasons including Local Need, Ribbon Development, and Public Services.
- **KCC Reg. Ref. 11/306:** Permission refused in July 2011 for John Browne and Lynda McCormack to build a dormer bungalow and domestic garage. Three refusal reasons similar to current application reasons – Local Needs, ribbon development, and public service demand.
- **KCC Reg. Ref. 10/199:** Permission refused in October 2010 for John Browne and Lynda McCormack to build a dormer bungalow and domestic garage. One refusal reason referred to waste water treatment system and high water table level.

Site to the south:

- **KCC Reg. Ref. 071166:** Permission refused in July 2007 for the construction of a dormer dwelling for Joanna King and Jason Brennan – non-compliance with Local Need policy.

Site to the north:

- **KCC Reg. Ref. 07/2080:** Permission granted in May 2008 for a bungalow for Daniel O'Shea and Therese Browne. Reviewing this file, the Planner accepted Daniel O'Shea as having met Local Needs criteria, but did not consider that Therese Browne did.

5.0 Policy Context

The site is outside the boundary of the Allenwood Village Land Use zoning plan which is included in Volume 2 of the Kildare County Development Plan 2017 – 2023 (CDP), so is subject to the general policies and objectives of the CDP.

5.1. Kildare County Development Plan 2017 - 2023

Chapter 4 refers to Housing, and Chapter 16 to Rural Design.

Section 4.12 of Chapter 4 refers to Housing in Rural Areas. Section 4.12.7 refers to Rural Housing Policy and sets out the categories of applicants that satisfy 'Local Need'.

Map V1-4.4 indicates that Allenwood and environs is located in 'Rural Housing Policy Zone 1'.

The Plan identifies criteria for an applicant to be considered for a one-off dwelling. An applicant must meet one of the following categories: A) is a member of a farming family (Category 1) or a member of the rural community (Category 2), and B) meets one of the local need criteria set out in Table 4.3(a) and (b).

Category of applicant 1:

A member of a farming family who is actively engaged in farming the family landholding. The applicant must demonstrate a genuine local need to reside in the area through active and direct involvement in the running of the family farm. The farm must be in the ownership of the applicant's immediate family for a minimum of seven years preceding the date of the application for planning permission.

Local Need Criteria in Rural Housing Policy Zone 1 is:

Persons engaged full time in agriculture (including commercial bloodstock/ horticulture), wishing to build their home in the rural area on the family 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.

Category of applicant 2:

A member of the rural community: The applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties or their active and direct involvement in a rural based enterprise.

Local Need Criteria in Rural Housing Policy Zone 1 includes: (i) must have grown up and spent substantial periods of their lives (12 years) living in the rural area and who

seek to build their home in the rural area on their family landholding or where no land is available in the family ownership, a site within 5km of the original family home, (ii) Grown up and spent substantial periods of their lives (12 years) living in the rural area who have left the area, but now wish to return to reside near to, or to care for immediate family members, (iii) Persons who can satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in the rural area where they have existing links to that rural area, and that the business will contribute to and enhance the rural community and that the nature of such enterprise is location dependent and intrinsically linked to a rural location.

Policy RH9 notes that notwithstanding compliance with local need criteria, applicants comply with all other normal siting and design considerations.

Policy RH10 seeks to control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on (summarising): orderly and efficient development of newly developing areas on the edge of towns and villages, future provision of infrastructure, and potential to undermine viability of public transport.

Policy RH12 seeks to discourage ribbon development (defined as 5 or more houses alongside 250m of road frontage). The Council will assess whether a development will exacerbate ribbon development, having regard to the type of rural area, degree the proposal might be considered infill, degree ribbon development will coalesce, local circumstances and special regard will be given to circumstances of immediate family.

Objectives relating to Rural Housing include **RO3** which seeks to implement the provisions of the Rural Housing Policy through the management of the provision of one-off housing in order to protect the physical, environmental, natural and heritage resources of the county, in conjunction with providing for rural housing for those persons who comply with the “Local Need” provision of the Plan.

Chapter 16 provides advice on Rural Design.

5.2. Sustainable Rural Housing Guidelines for Planning Authorities 2005

The Rural Housing Guidelines seek to provide for the housing requirements of people who are part of the rural community in all rural areas, including those under

strong urban based pressures. The principles set out in the Guidelines also require that new houses in rural areas be sited and designed to integrate well with their physical surroundings and generally be compatible with the protection of water quality, the provision of a safe means of access in relation to road and public safety, and the conservation of sensitive areas.

The subject site is identified as being in an area under 'Strong Urban Influence'.

5.3. Natural Heritage Designations

Ballynafagh Lake SAC (Site Code 001387) is located c.7 km to the north-east of the site. Ballynafagh Bog SAC (Site Code 000391) is located c.7 km to the north-east. Mouds Bog SAC (Site Code 002331) is c. 7.5 km to the south-west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal on behalf of the applicant has been lodged against the Council's decision to refuse permission, which includes a Planning Consultation Report with reference to 'Site Ownership History', and 'Applicant Supplementary Information'. In summary, it states:

- Land is in the ownership of the applicant's family since 1929 and there are proven social ties to the area for the Browne family going back generations.
- The existing homestead, where the applicant spent a lot of his childhood, was only demolished in 2008 so precedent set for a dwelling on the site.
- Applicants wish to build their home and long term business on the entire site – there will be no speculative development.
- Map included to demonstrate that there are c.42 dwellings within a 1km stretch of the road in ribbon, linear, backland, sporadic and pepper potted development. States there are c.175 dwellings within a 1.3km squared area (illustrated on map).
- References planning history and notes other planning precedents in the area.

- Refers to Category 2 applicant. State that the applicants live c.10km away from the site and c.10.8km from the actively working bog owned by the applicant. States it is not sustainable to work on the bog full time, and the distance between their current residence and the proposed site makes working the land full time inaccessible.
- References the Council comments that there was no business plan submitted – further information could have been sought.
- Inaccurate to state that the applicant's association with the area is through grandparents and uncle. It was never stated that the applicant attended school in Allenwood – his parent's home was in Prosperous, his family still worked the bog in Allenwood.
- States that while the Council have produced notes relating to a previous application belonging to the applicant in Prosperous, it is stated that the applicants father was born and raised in the family homestead and moved to Prosperous in 1970. Shortly afterwards he became the full time carer for the applicant's uncle, and the applicant spent most of his time at the proposed site caring for his uncle.
- Lynda Browne's family is from Coill Dubh, c.5.3km from the site where her family live.
- Considers the applicants fit into many aspects of the Zone 1 table, but completely fulfil Part 5 of zone 1 in their long term plan – master plan referenced.
- It is the long term plan to continue working the bog to facilitate the farming element on the proposed site – a business plan can be submitted following a positive outcome.
- Agrees there is a high volume of dwellings in the direct vicinity but that it does not constitute ribbon development. States that the house would be the fourth house in 250m on one side of the road.
- Applicant has been seeking permission for 7 years. The very first application in 2010 upon review, Lynda Browne would have complied with the Local Need which at the time included a catchment area of 7km. The refusal was based

on a high water table level. In 2011 at the time of the second application, the catchment area had changed to 5km.

- Consider that while the applicants fulfil the Local Need criteria, it has never been fully clarified to the Local Authority. The applicant intends to work the bog and the land as his main source of income.

6.2. **Planning Authority Response**

The Planning Authority state that they have no further comment.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. I am satisfied with the siting and design of the dwelling. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Rural Housing Policy
- Ribbon Development
- Preservation of the rural environment and Public Services
- Appropriate Assessment

7.1. **Rural Housing Policy**

This is the fifth planning application for the development of a dwelling on this site. The two earliest applications (2010 and 2011) were submitted by the current applicants. The more recent two (2014 and 2015) were submitted by Michael and Maura Browne, presumed to be parents. With the exception of the 2010 application, all reasons for refusal referred to Rural Housing Policy and compliance with local need criteria.

In three of the last four applications, the non-compliance with 'Local Need' criteria formed the basis for refusal. Ribbon development and public services were referred to in other reasons for refusal. In 2010, the reason for refusal did not refer to Local

Need but to a high water table on site. This reason has not been repeated subsequently.

In the subject application consultants, on behalf of the applicants, consider that the applicants fulfil the Local Need criteria but it has never been fully clarified to the Local Authority.

The Council's policy with respect to Local Needs and the applicant's case is considered herein.

The county is split into two zones with respect to Rural Housing Policy. Allenwood village and the subject site are located in Rural Housing Policy Zone 1. Zone 1 comprises more populated areas with higher levels of environmental sensitivity and significant development pressure.

In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare, an applicant must be one of two categories: 1. a member of a farming family who is actively engaged in farming the family landholding; or, 2. a member of the rural community. The applicant must also meet one of the local need criteria depending on applicant category. The applicant in this case refers to being in category 2 - a member of the rural community.

The applicants state that they completely fulfil Part 5 of Zone 1. There is no Part 5 in the current CDP, however, CDP 2011 – 2017 includes a Part 5 and it is similar to criteria (iii) of the current CDP – *'Persons who can satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in the rural area where they have existing links to that rural area and that the business will contribute to and enhance the rural community and that the nature of such enterprise is location dependent and intrinsically linked to a rural location'*.

Before considering category (iii), it is appropriate to review categories (i) and (ii).

Criteria (i) refers to persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. The applicant states that he spent most of his childhood at the proposed site caring for his uncle and working the family bog. It would appear that the applicant did not live on the site and does not live in the area currently. Therefore, I do not consider that the applicant falls into category (i).

Criteria (ii) refers to persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 5km of the original family home. The applicants have not stated that they wish to reside near to, or to care for immediate family members. Therefore, I do not consider that the applicant falls into category (ii).

Criteria (iii) refers to persons who can satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in the rural area where they have existing links. There is reference to the applicant operating a farming business from the rest of the site, outside of the area for the dwelling. As noted above, the land is currently not in active use which the applicant states is due to distances between the site and his current home and his other work on the bog, which makes it infeasible to work the site. The location of the bog has not been clarified in the documentation.

Reference is made to a masterplan but it was not included in the appeal documentation – 3 attachments were included: The Council decision, the Planner's Report and a Planning Consultation Report. No information has been provided with respect to a commitment to operate a full time business to comply with criteria (iii), or how it would contribute to and enhance the rural community, which is also a requirement for compliance with criteria (iii).

There is reference to the applicant working a bog and part time work in construction, however no information has been provided in terms of how the applicant intends to comply with the requirements to operate a full time business on the site.

In conclusion, I am not satisfied that the applicants comply with the criteria (iii) Local Needs Policy, and therefore do not comply with the rural housing policy of the Council.

7.2. Ribbon Development

The second reason for refusal by the Council referred to ribbon development. It is considered that the capacity of the area to absorb any further development has been

exhausted. The reason states that the development would exacerbate ribbon development and be contrary to Policy RH12.

From my site visit and a review of maps of the area, there is a significant number of one-off dwellings in the area. The applicant themselves submit that there are c.175 dwellings within a 1.3km squared area. However, the location of this proposed dwelling would be among the last dwellings along the road on the west side (I refer the Board to the attached maps in the pouch).

This is not an infill development, which could potentially be absorbed amongst the existing dwellings. The dwelling is proposed at the end of a stretch of road containing a significant number of dwellings – the applicant submits there are c.42 dwellings along this 1km stretch of road. To permit further development in this location would be to exacerbate this situation, and would be contrary to policy RH12 of the CDP.

In conclusion, I am satisfied that the proposed development would exacerbate ribbon development in the area, and set a precedent for lands further south along the local tertiary road.

7.3. Preservation of the rural environment and Public Services

The Council's third reason for refusal referred to an excessive density of development which would militate against the preservation of the rural environment, and would be likely to give rise to demand for public services which are not planned.

Policy RH10 seeks to control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements.

As noted above, I consider that the proposed development would exacerbate ribbon development, and that it would also lead to an excessive density of development which in turn would impact negatively on the preservation of the rural environment. I consider policy RH10 to be reasonable and to permit further dwellings in this area would exacerbate the level of piecemeal and haphazard development of rural areas.

The Council state that the proposed development, taken in conjunction with existing development, would be likely to give rise to a demand for public services and community facilities which are not economic to provide nor planned in this area

which is c.2.5km south-west of Allenwood village. I consider this reasonable and consider the subject dwelling would be contrary to policy RH10.

7.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 recommend that planning permission should be refused permission, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site in an area where housing is restricted to persons demonstrating local need in accordance with the current Kildare County Development Plan 2017 – 2023, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. 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.

Ciara Kellett
Inspectorate

20th September 2017