



An
Bord
Pleanála

Inspector's Report PL09.248993

Development	4-bedroom, 2 storey house with garage, entrance and services.
Location	Corbally, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	16/1141
Applicant(s)	Niamh Fitzgerald
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First party
Appellant(s)	Niamh Fitzgerald
Observer(s)	None
Date of Site Inspection	26 th October 2017.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The appeal site address is Corbally, Celbridge, Co. Kildare. It is located c.3.2km north-west of Celbridge, c.3.7km south of Maynooth and c.4.3km north-east of Straffan Village. It is c.1km east of the R406 Maynooth – Clane road off a local road, the L5065, in a rural part of Kildare. The L5065 road provides a link between the R406 road and Celbridge town.

The site is south of Corbally Stud, which is located on the opposite side of the L5065 road, and noted as where the applicant currently resides. The site is included within lands currently owned by the applicant's family, which are stated as being c.77Ha on lands either side of the L5065. As well as providing access to the stud and farmland, there are a small number of other one-off dwellings along this stretch of road.

- 1.2. The site identified within the red line boundary is stated as being 1.74 acres in area. It is rectangular in shape, generally flat and bounded to the west by the existing private entrance to the house to the south. Fields form the eastern and southern boundary. A line of trees runs north-south almost centrally through the site. Another two dwellings are located to the north-east and a green field to the north separates the site from the L5065 road.

Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. The development as initially proposed was for a two storey dwelling, 344.7sq.m in area, with a hipped roof 9.85m above ground, and an attached double garage. The front of the house is orientated west towards the existing entrance road to the dwelling to the south.

There are existing trees and hedgerows along the northern and western boundaries. New hedgerows to match existing are proposed along the southern and eastern boundaries of the site.

The house included two full height projecting curved walls and bay windows to the front elevation, as well as a projecting ensuite bathroom at first floor level over a boot room on ground floor (northern elevation). Internally the house comprised 4 bedrooms at first floor with living/ sitting room /kitchen etc. at ground level.

Materials proposed included a roof with a natural slate finish, walls to be of a coloured render finish and the garage door to be of a roller shutter type.

- 2.2. Following the Request for Further Information and Clarification of Further Information, the design of the dwelling was amended. The projecting bay windows were removed, a two storey projecting porch was added, the projecting ensuite above the boot room was brought back flush with the dwelling and the garage was reduced to a single garage. The roof was modified to a pitch roof and the ridge height amended to 10.05m above ground.
- 2.3. The proposed use of the existing entrance to the private road was revised at Clarification of Further Information stage. A new entrance further west of the site was included to obtain sight lines required by the Transport Department.

The site is to be served by a private borehole well and a proprietary wastewater treatment system.

The application was accompanied by 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 two reasons:

- 1. It is the policy of the Kildare County Development Plan 2017 – 2023 to manage the provision of one-off rural housing in the rural countryside in compliance with a category of Local Need as indicated in Section 4.12.7 and required under policy RH2 of the Plan, subject to compliance with normal planning criteria as indicated in Section 4.13 of the Plan. Based on the information submitted with the application, the applicant has not demonstrated a genuine housing need and does not comply with any of the categories as indicated in Table 4.3(a) and 9(b) of the Plan. The proposed development would be contrary to Section 4.12.7 and policy RH2 of the Kildare County Development Plan 2017 – 2023 and therefore would be contrary to the proper planning and sustainable development of the area.*

2. *Having regard to the scale and bulk of the proposed development, the two storey dwelling at 10m in height, is incompatible with the character of the surrounding rural area. The proposed development is contrary to the objectives of Chapter 16, Rural Design and policy RH9 in terms of Siting and Design of the Kildare County Development Plan 2017 – 2023, would have a disproportionate visual impact due to excessive bulk. The proposed development 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. The application was subject to requests for Further Information and Clarification of Further Information, which included advertisement of significant information being received by the Planning Authority at Clarification stage. The Reports include:

- Notes a line of trees traverse the site in a north-south line which do not appear on the site layout map.
- Notes that trial holes were filled in and there was evidence of ponding on lands immediately opposite the site to the west.
- Transport Department requests Further Information in relation to inadequate sight lines at the entrance to the L5065.
- Does not consider the design of the dwelling is appropriate to the rural area.
- Refers to Rural Housing policy and notes applicant is making the application on the basis of complying with Zone 1, Category 2 of the Development Plan. Submits that based on information supplied, applicant has not demonstrated compliance with the criteria.
- Considers Further Information is required regarding housing policy, design of dwelling and garage, lack of folio maps, uncertainty regarding suitability of site for wastewater disposal, and inadequate sight lines.
- Response to Further Information was received on 24th March 2017. Planner notes that applicant has submitted additional documents in support of her

local need, but considers that it cannot be determined if the applicant has a genuine local need and considers clarification should be sought.

- Considers revised design addresses the concerns but states that the dwelling has increased in height to 10.8m, which is considered excessive in the rural area. Request that applicant address this by way of clarification.
- Sight lines are indicated as being 60m for a 60kph speed limit. Transport Department require 90m in each direction.
- Requests Clarification of Further Information in relation to the above items, which resulted in a revision to the proposed entrance off the L5065 road, as well as the dwelling being reduced to 10m from ground level.
- Following receipt of response, the information was considered significant and was re-advertised.
- The Planner considers that there is a 6 year gap in documentary evidence of residence in the area, and therefore non-compliance with local needs criteria, as well as considering height and pitch of roof to be excessive and disproportionate. Revised entrance and sight lines considered acceptable.
- Planner recommends refusal of permission for two reasons based on local need and design of dwelling.

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

3.2.2. Other Technical Reports

- **Water Services:** No objection subject to conditions.
- **Environment:** Seeks Further Information.
- **Area Engineer:** No objection subject to conditions.
- **Transportation:** Seeks Further Information. Notes Design Manual for Roads and Bridges requires a 90m sight line for speed limit of 80kph. Following revised location for site entrance, no objection subject to conditions.
- **EHO:** Notes test holes filled in at time of site inspection.

3.3. Prescribed Bodies

- **Irish Water:** No objection subject to conditions.

3.4. Third Party Observations

No submissions received.

4.0 Planning History

There are planning applications associated with the larger site. In summary:

- **KCC Ref. Reg. 05/430:** Permission granted in December 2005 for two separate agricultural gate entrances.

In the vicinity:

- **KCC Ref. Reg. 05/677:** Permission granted in July 2006 for a two storey house, garage and effluent treatment plant and shared entrance, to the north of the subject site at the corner of the private entrance and the L5065 road. This dwelling has not been constructed.
- **KCC Reg. Ref. 07/2505:** Permission granted in August 2008 for a single storey extension and conservatory to dwelling to the north-east of the site facing the L5065 road.
- **KCC Reg. Ref. 06/2261:** Permission refused in December 2006 to erect a four-bedroom dormer bungalow to the side/rear of an existing dwelling, to the north-east of the subject site facing the L5065 road. Refused permission for six reasons including haphazard backland development, creation of an undesirable building line, impact on residential amenities, inadequate road frontage for independent access, shared septic tank and proximity to well.
- **KCC Reg. Ref. 05/676:** Permission refused in May 2006 for the construction of a two storey house to the north-east of the subject site, for three reasons – non-compliance with Local Need policy, greenbelt and agriculturally used lands should be kept free from encroaching development that would be more appropriately facilitated in towns, and the development located in a rural area would give rise to the generation of additional traffic movements.

5.0 Policy Context

The site is outside the boundary of a Land Use zoning plan, so is subject to the general policies and objectives of the Kildare County Development Plan 2017 – 2023 (The Plan).

5.1. Kildare County Development Plan 2017 - 2023

Chapter 3 refers to Settlement Strategy, Chapter 4 refers to Housing, and Chapter 16 to Rural Design.

Table 3.1 of Chapter 3 identifies Maynooth, Leixlip and Newbridge as ‘Large Growth Town II’ areas and Celbridge is identified as a ‘Moderate Sustainable Growth Town’. The role of Large Growth Towns I and II *‘are designated to act as important self sustaining regional economic drivers, accommodating significant new investment in transport, housing, economic and commercial activity, while capitalising on international connectivity and high quality connections to Dublin City Centre’*.

Moderate Growth towns are noted as continuing *‘to have a strong role as commuter locations within the fabric of continued consolidation of the Metropolitan area’*.

Policy SS2 states: *Direct growth into the Large Growth Towns, followed by Moderate Sustainable Growth Towns and Small Towns, whilst also recognising the settlement requirements of rural communities.*

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 Celbridge 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 actively engaged in farming the family land (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 2 of applicant in Zone 1:

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 for Category 2 is:

- (i) 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. Where no land is available in the family ownership, a site within 5km of the original family home may be considered.*
- (ii) 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.*
- (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.*

A note is provided below Table 4.3(b). It state:

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 RH2 states ‘*Manage the development of one off housing in conjunction with the rural housing policy zone map (Map 4.4) and accompanying Schedules of Category of Applicant and Local Need Criteria set out in Table 4.3. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.*’

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 due to low density development.

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.

5.3. Natural Heritage Designations

Ballynafagh Lake SAC (Site Code 001387) is located c. 14km to the south-west of the site. Ballynafagh Bog SAC (Site Code 000391) is located c. 14km to the south-west. Rye Water Valley/Cartron SAC (Site Code 001398) is c. 4km to the north 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. In summary, it states:

- Consider evidence submitted through the course of the application shows compliance of the applicant with requirements for residency, as laid out in both Development Plans (i.e. County Development Plan 2011 – 2017 and 2017 – 2023).
- Notes that prior to moving to Corbally Stud, the family home was at Redgap, Rathcoole, County Dublin less than 18km away.
- Evidence submitted demonstrates that her family home has been Corbally Stud since 2004 after its purchase in 1999.
- Lists evidence provided and notes there are gaps in the personal evidence however, states there is no doubt that this is the family home and the applicant's residence has been confirmed by her parents. Considers there is nothing unusual in current society about an adult child remaining in the family home, and it is unreasonable for the evidence of the parents not to be accepted as proof of residence.
- With respect to the scale of development, it is noted that major revisions were carried out over the course of the application. Considers only the height of the roof was a cause for concern and notes that if there is still concern it is possible to revise the roof by substituting the single pitch roof with a double pitched roof (images included). Changes could be added as a condition to a Grant of Permission.

- Concludes that the applicant has lived in Redgap for 18 years of her life and has lived in Corbally for 12 years of her life, and would like to live in this rural area close to her family. Considers it unreasonable to refuse permission for the applicant to build herself a house on her parent's land in a part of Ireland that she has grown up and lived in all her life.

6.2. Planning Authority Response

The Planning Authority responded and refer the Board to the Planner's Report. It is stated that they consider based on the information provided that the applicant's genuine rural housing need could not be established for a period of 12 years and considers the height of the dwelling is excessive.

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. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Rural Housing Policy
- Design of Dwelling
- Appropriate Assessment

7.1. Rural Housing Policy

- 7.1.1. In the subject application consultants, on behalf of the applicant, consider that the applicant fulfils the Local Need criteria.

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

- 7.1.2. The county is split into two zones with respect to Rural Housing Policy. Celbridge and Maynooth (the largest towns in the vicinity) 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.

Table 4.3(b) states with respect to 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*'.

No information has been provided with respect to where the applicant works indicating active or direct involvement in a rural based enterprise, or why there is a genuine need to live in the rural area other than family ties.

- 7.1.3. Local Need 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 she has lived in the area since she was 18, when the family moved to Corbally Stud. The applicant provides evidence of having lived and attended school in Rathcoole, Co. Dublin, prior to moving to Corbally Stud with her family in 2004.

Evidence is provided for the applicant living in Corbally Stud over the years. I agree with the Planning Authority that there appears to be a gap of a number of recent years, where no evidence has been provided by the applicant of having lived in the area. I consider that it remains inconclusive as to whether the applicant resided there during the past 12 consecutive years as required by the Development Plan, nor can the applicant be considered as complying with Local Need Criteria (ii) of returning having moved away after spending 12 years of their lives in the local area.

Having regard to the above, I do not consider that the applicant falls into Criteria (i) or Criteria (ii). As noted, no information has been provided in relation to Criteria (iii) with respect to operating a business from the home which will enhance or contribute to the rural community. Therefore, I do not consider that the applicant falls within Criteria (iii) either.

- 7.1.4. Policy RH2 seeks to manage the development of one off housing in conjunction with the rural housing policy zone map and accompanying Schedules of Category of Applicant and Local Need Criteria set out in Table 4.3. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application. I consider that insufficient evidence has been supplied to demonstrate that the applicant has lived for 12 years in the rural community. The proposal is therefore not in compliance with policy RH2, a policy which I consider reasonable.
- 7.1.5. Policy SS2 seeks to direct growth into the Large Growth Towns, followed by Moderate Sustainable Growth Towns and Small Towns, whilst also recognising the settlement requirements of rural communities. I consider that the proposed development would lead to a proliferation of houses in this rural area under development pressure contrary to policy SS2 and would lead to a demand for public services.
- 7.1.6. In conclusion, I am not satisfied that the applicant complies with the criteria (i), (ii) or (iii) of Local Needs Criteria, and therefore does not comply with the rural housing policy of the Council, and is therefore not in compliance with policy RH2. I consider that the proposal would also be contrary to policy SS2.

7.2. **Design of Dwelling**

- 7.2.1. Over the course of the application, the design of the dwelling was modified a number of times. The final design was for a dwelling of 10.05m above ground which the Planning Authority considered incompatible with the character of the surrounding rural area.
- 7.2.2. There are two dwellings to the north-east of the subject site. Both are single storey dwellings.
- 7.2.3. While I accept that views of the dwelling will only be available intermittently through gaps in the hedgerow along the L5065 road, it is proposed to remove some trees and hedgerow that currently run in a north-south direction for the construction of the house, and thereby remove potential screening of views. I draw the Board's attention to the fact that no information has been provided with respect to the quality, nature or type of trees to be removed or retained, and recommend that this information is sought should the Board be minded to grant permission.

7.2.4. The applicant as part of the appeal provided an alternative double pitched roof option which appears to lower the height of the dwelling to 8.325m. The Board could seek to reduce the roof by way of condition, but based on the design as currently presented, I consider it to be out of character by reason of its bulk and scale, and visually incongruous in the rural setting.

7.3. **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 under strong urban influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and 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. It is considered that, by reason of its height and bulk, the proposed two-storey house would be visually obtrusive in this open rural area which is characterised by single-storey houses. The proposed house would, therefore, be contrary to the proper planning and sustainable development of the area.

Ciara Kellett
Inspectorate

27th October 2017