



An
Bord
Pleanála

Inspector's Report PL.15.249093.

Development	Construction of a house and garage.
Location	Shanlis, Ardee, County Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	16/884.
Applicant(s)	Alison McCabe.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	Andrew and Adelaide McKeever.
Observer(s)	None.
Date of Site Inspection	25 th October 2017.
Inspector	Karen Kenny.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
5.2. Natural Heritage Designations	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response.....	8
6.4. Observations	9
7.0 Assessment.....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13

1.0 Site Location and Description

1.1. The site is located in a rural area approximately 3.5 kilometres south west of Ardee and fronts onto the R165 a Regional Road that connects the N2 and the N52. The site, with a stated area of 0.21 hectares, forms part of a larger field with mature hedges on all boundaries. The application site is adjacent to and west of a recently constructed two storey dwelling in the same field. The site is slightly elevated above road level with ground levels rising to the west.

2.0 Proposed Development

2.1. The proposed development as set out in the public notices comprises a two storey dwelling house, detached domestic garage, waste water treatment system and polishing filter and all associated site works.

2.1.1. The dwelling has a stated floor area of 198 square metres. The dwelling is rectangular in shape with a pitched roof over and a ridge height of approximately 8.3 metres. The stated finishes comprise a sand cement / smooth plaster wall finish and blue black slates on the roof. Decorative treatments are proposed around the front door and windows.

2.1.2. A vehicular entrance is proposed onto the R165 Regional Road.

3.0 Planning Authority Decision

3.1. Decision

Grant permission, subject to 11 no. conditions.

3.2. Planning Authority Reports

3.2.1. The Planning Officers Report includes the following assessment:

- Site is located in Development Zone 5 and applicant must demonstrate compliance with local housing need qualifying criteria.
- Further information was submitted in relation to local need criteria, traffic safety, dwelling design and wastewater treatment.

- The Planner’s Report following further information concludes that the applicant has sufficiently demonstrated that they meet the local housing need criteria and that issues raised by the Planning Authority in relation to the siting and layout of the development, dwelling design, access and wastewater treatment have been addressed.

3.2.2. Other Technical Reports

Infrastructure Report: No objection.

Environment Report: No objection.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

One third party submission was received and considered by the Planning Authority. The issues raised are similar to those set out in the grounds of appeal, set out below.

4.0 Planning History

There is no planning history pertaining to the appeal site.

ABP Ref. PL.15.224422 / PA Ref. 07/348: Application for two storey dwelling on lands adjoining the appeal site to the east. Permission granted by the Planning Authority. This decision was subject to a third party appeal to An Bord Pleanála. An Bord Pleanála granted planning permission subject to 8 no. conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Louth County Development Plan 2015-2021 is the relevant statutory plan. The following sections are considered relevant.

- The site is in rural Development Zone 5 with an objective “*to protect and provide for the development of agriculture and sustainable rural communities*”

and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone”.

- RD 39 sets out the categories of development that will be considered in Zone 5 and includes “limited one-off housing” subject to the qualifying criteria in Section 2.19.1 of the Development Plan.
- Policy SS 18: To permit rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside, subject to the local needs qualifying criteria as set out in Section 2.19.1 below.
- Section 2.19.1 - Applicants for one-off rural housing in Development Zone 5 will be required to demonstrate compliance with one of the Local Needs Qualifying Criteria set out below:
 1. Applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application,
 2. That they have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application.
 3. That the applicant is actively and significantly involved in agriculture and that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. Where the applicant is employed in a part time basis, the predominant occupation shall be agriculture. In all cases, supporting documentation outlining that the nature of the activity is sufficient to support full-time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that agricultural enterprise.

4. That the applicant is actively and significantly involved in the bloodstock and equine industry, forestry, agri-tourism or horticulture or rural based enterprise, that the nature of the activity is sufficient to support full time or significant part time occupation and that the applicant can demonstrate a specific functional need to live at the site of their work. Where the applicant is employed in a part time basis, the predominant occupation shall be bloodstock and equine industry, forestry, agri-tourism or horticulture sectors or rural based enterprise. In such cases supporting documentation outlining that the nature of the activity is sufficient to support full time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that enterprise.
 5. That the applicant is providing care for an elderly person or a person with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them. One house only will be allowed on this basis and the site must be adjacent to the dwelling in which the older persons or person with the disability resides.
 6. That the applicant is required to live in a rural area for exceptional health reasons. Such applications must be accompanied by a medical consultant's report and recommendation outlining the reasons why it is necessary for the applicant to live in a rural area and also be supported by an appropriate disability organization of which the applicant is a registered member.
- Section 2.19.2: Local Rural Area is defined as *"being a radius of six kilometres from the qualifying rural family residence. Where the qualifying area is reduced by reason of its location, for example, proximity to the coast, county boundaries or development zone boundaries, the six kilometer (6km) radius may be extended to include an area equivalent to the area lost"*.
 - Section 2.19.5: Qualifying Land Owner is defined as being where a person has owned a landholding of at least 3 hectares for a minimum of 10 years.
 - SS 24: To ensure that the proposed development is consistent with the strategic objective for the development zone in which it is located as set out in Table 3.2 of this Plan.

- SS 25: To require that applications for one-off houses demonstrate compliance with the Development Management Assessment Criteria for One Off Rural Housing as detailed in Section 2.19.7.
- SS 26: To require that the design and siting of the proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. In this regard, applicants will be required to demonstrate that the proposal is consistent with the document *Building Sensitively and Sustainably in County Louth* and the guidelines contained in Section 2.20.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. One third party appeal has been received from local residents. The principal grounds of appeal that are relevant to the appeal, are summarised as follows:
- Increase in conflicting traffic movements from vehicular entrances will represent a serious safety risk to heavy farm traffic and other traffic using entrance to appellant's property and to the existing and proposed dwellings on the western side of the road.
 - R165 is a busy Regional Road linking N52 and N2 with a speed limit of 80 kph. There is a history of traffic accidents at this location.
 - Traffic survey undertaken in August 2017 shows that approximately 1,800 vehicles per day use the road; and that the speed limit is frequently exceeded, with speeds in excess of 100 kph.
 - Despite a weight restriction on the route, 12.2 % of weekday vehicles are heavy vehicles.
 - TII and Department of Environment and Local Government guidelines (Spatial Planning and National Roads, Guidelines for Planning Authorities 2012)

highlight the importance of regional roads. The proposed development is contrary to guidance in relation to non-national roads.

- It is not possible to achieve the required sight lines without removing most of the hedgerow to the northwest. Accurate survey of the road included with the appeal.
- Site Suitability Assessment Report fails to reference marsh land and wildlife habitat on the opposite side of the road. The wetland is connected by a culvert to the drain along the front site boundary. Historic maps show site was subject to flooding in the past.
- Understand that the applicant's family are originally from Ardee Town. Applicant has no particular need for a house at this location.

6.2. Applicant Response

- Statement that appellant's house entrance is nearly opposite the proposed entrance is inaccurate as appellant's use an entrance some 100 metres or more to the west of their farm.
- Road is wide and strait and traffic using the road can see approaching traffic at a long distance.
- Concerns in relation to road speeds and weight restrictions matter for An Garda Siochana.
- Applicant can comply with the terms of the permission granted by Louth County Council with regard to improved sightlines.
- Requirements in relation to wastewater treatment have been adequately dealt with and no pollution will occur.
- The applicant has lived in Shanlis for over ten years and wishes to live near her mother, stepfather and sister.

6.3. Planning Authority Response

No Response.

6.4. Observations

None.

7.0 Assessment

7.1.1. I consider that the key issues in this case are as follows:

- Compliance with Rural Housing Policy
- Sightlines
- Traffic
- Waste Water Treatment
- Dwelling Design
- Appropriate Assessment

7.2. Compliance with Rural Housing Policy

7.2.1. The Louth County Development Plan 2015-2021 is the relevant statutory plan. The appeal site is located in a rural area outside of a designated settlement. The site is located in rural Development Zone 5 and is subject to a zoning objective *“to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone”*.

7.2.2. Section 3.10.5 of the Development Plan states that Development Zone 5 has been subject to increasing pressure for one off housing development due to proximity to Dublin and the M1 motorway. Policy RD39 sets out the categories of development that will be considered in Zone 5 and includes limited one off housing subject to the applicant demonstrating compliance with one of the six local needs qualifying criteria set out in Section 2.19 of the Development Plan.

7.2.3. The grounds of appeal state that the applicant’s family are originally from Ardee Town and that the applicant has no particular need for a house at this location. The

case put forward by the applicant, appears to relate to local needs qualifying criteria no. 1 and no. 2 as follows:

1. *“Applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application.”*
2. *“That they have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application.”*

7.2.4. Letters on the file from a solicitor state that the applicant moved to Shanlis from Ardee Town in the year 2000 at the age of 12. The applicant states that she is a step daughter of the landowner and that the landowner has farmed the land at this location for over 30 years. Land Registry details submitted with the application confirms that the applicants step father (site owner) is the owner of a holding of c. 35 hectares at Shanlis, Ardee since 1988. Section 2.19.1 of the Development Plan states that applicants for one off rural housing will be required to demonstrate compliance with the relevant local needs criteria. On the basis of the details submitted with the application the applicant has demonstrated compliance with Local Needs Criteria no. 1, as she is the step daughter a ‘qualifying landowner’ as defined in Section 2.19.5 of the Development Plan¹ for a period of 10 years. Submitted details indicate that the applicant has lived in the “local area” for in excess of 10 years and does not own a dwelling in accordance with Criteria 2, however, I would note that the issue of ‘rural housing need’ is not addressed.

7.3. **Sight Lines**

7.3.1. The appellant argues that it is not possible to achieve the required sight lines without removing most of the hedgerow to the northwest of the site. The Development Plan sets out minimum visibility standard of 125 metres for new entrances onto Regional Roads that are not protected, at a setback of 3.0 metres from the edge of the carriageway. The road is very straight on either side of the site and I am satisfied,

¹ Where a person has owned a landholding of at least 3 hectares for a minimum of 10 years.

on the basis of the details submitted with the application that visibility splays can be achieved, subject to the removal and setting back of some hedgerow within the landholding.

7.4. Traffic

- 7.4.1. The grounds of appeal argue that the R165 is a busy regional road and that new entrances onto this road should be restricted. It is also argued that the increase in traffic movements arising from an additional vehicular entrance at this location would result in a safety risk.
- 7.4.2. It is proposed to construct a vehicular access onto the R165 at a point where an 80 kph speed limit applies. This section of the R165 connects the N52 and N2 and is heavily trafficked. The road is very straight along this section and I noted at time of inspection that vehicles were travelling at speed. There are two existing vehicular entrances to the east of the site serving dwellings and a farmyard. The proposed development would intensify the number of entrances at this location.
- 7.4.3. It is a policy of the Louth County Development Plan to restrict access onto “Protected Regional Routes” in order to preserve their carrying capacity, their life span and in the interest of traffic safety (Section 7.35 refers). While the R165 is not identified as a Protected Regional Route, it is a heavily trafficked Regional Road and provides an important connection between urban centres in the area. The Sustainable Rural Housing Guidelines for Planning Authorities, 2005 state that it is vitally important that housing along non-national routes is located in such a manner as to avoid endangering public safety by way of traffic hazard and recommends (inter alia) that the premature obsolescence of regional roads through the creation of excess levels of individual entrances is avoided (Section 4.4 refers). I consider that the proposed development by itself and by the precedent which it would set, if permitted, would create an adverse impact on the safety and capacity of the R165 at this location, endanger public safety by reason of traffic hazard and be contrary to the guidance set out in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005.

7.5. Waste Water Treatment

- 7.5.1. The appellant argues that the Site Suitability Assessment Report is inadequate as it fails to reference marsh land and a wildlife habitat on the opposite side of the road. The applicant in response states that the requirements in relation to wastewater treatment have been adequately dealt with and that no pollution will occur.
- 7.5.2. Details of a site suitability test were submitted to the Planning Authority. The site is located on a locally important aquifer with high vulnerability. The tests identified a T value of 57.56 and as such the site may be suitable for a secondary treatment system and polishing filter discharging to ground. A P Test was carried out and identified a P value of 46.56, indicating that a secondary treatment system with raised polishing filter would be acceptable. The trial hole summary refers to mottling at 1.6 metres that may be indicative of the winter water table. I noted on inspection that the water level in the trial hole was at c. 1.5 metres below ground level. It is proposed to install a package wastewater treatment system and polishing filter. I am satisfied, based on the submitted site characterisation form and having inspected the trial hole that the proposed treatment system is suitable and that it meets the requirements of the EPA Code of Practice for Wastewater Treatment & Disposal Systems Serving Single Houses (2009) in terms of separation distances (based on the distances set out in Table 6.1), depth of subsoil (based on the recommended depth of 0.9 metres in Table 6.2) and the design of the system.

7.6. Dwelling Design

- 7.6.1. I consider that the design, subject to the removal of decorative features around the doorway and windows and the use of natural finishes, is in keeping with the character of development in the general area. I consider that the overall scale and mass of the dwelling is not excessive and that the site is not overly prominent. It is considered appropriate that new development in a rural area would incorporate native landscaping of indigenous species that reflects the rural context. Should the Board be minded to grant permission I recommend that conditions are included in relation to the use of natural finishes and landscaping.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of development proposed, namely the construction of a rural dwelling 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 permission be refused for the reasons outlined below.

9.0 Reasons and Considerations

1. Vehicular access is proposed onto the R165 a heavily trafficked Regional Road at a location where the maximum speed limit applies. It is considered that the proposed development, taken in conjunction with existing development in the vicinity, would both by itself and the precedent it would set for other developments, would endanger public safety by reason of a traffic hazard and obstruction of road users and would be inconsistent with the proper planning and sustainable development of the area. Furthermore, the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, recommend against the creation of unnecessary accesses and the creation of excesses levels of individual entrances onto Regional Roads. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Kenny

Senior Planning Inspector

17th November 2017