



An  
Bord  
Pleanála

## Inspector's Report PL.ABP.300694-18

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<b>Development</b>	House, septic tank, percolation area, bored well, widening of entrance and ancillary site works.
<b>Location</b>	Carrickslaney, Kilbride, Co. Carlow
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority Reg. Ref.</b>	17/274
<b>Applicant(s)</b>	Cormac & Bridget Maher
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Thomas & Elizabeth Cummins
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> March 2018
<b>Inspector</b>	Kenneth Moloney

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## 1.0 Site Location and Description

- 1.1. The subject site is in a rural area situated approximately 5km south of Tullow, Co. Carlow.
- 1.2. The predominant land-use in the immediate area of the appeal site is agriculture and the local topography undulates. The gradient of the appeal site slopes gently upwards away from the public road.
- 1.3. The overall size of the subject site is approximately 0.89 ha (2.1 acres) and the shape of the site is approximately rectangular.
- 1.4. The appeal site is an existing agricultural field and there is a mature hedgerow to the front of the site.
- 1.5. There are two single storey houses located on the opposite side of the public road from the appeal site.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a proposed single storey dwelling house, septic tank and percolation area, bored well and widening of existing entrance.
- 2.2. The proposed vehicular entrance will accommodate wing walls.
- 2.3. The overall floor area of the proposed house is 188 sq. metres. The floor plan of the proposed house includes 4 no. bedrooms and living area.
- 2.4. The maximum height of the proposed house is 4.5m above ground level. The proposed house is set back from the public road approximately 46 metres.
- 2.5. The front elevation is finished is stone and render.

Additional information sought for (a) drainage details, (b) details of compliance with rural housing policy and (c) comments are invited in relation to the third-party submission on the file.

### 3.0 Planning Authority Decision

3.1. Carlow County Council decided to **grant** planning permission subject to 15 no. conditions which are standard for the nature of development.

#### 3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

##### Area Planner

- Previous permission on the site. Conditions attached by An Bord Pleanala are specific in relation to mass, scale and occupancy.
- The current proposal is consistent with these permissions including floor area less than 200 sq. m., height less than 4.5m at +100.850.
- The design and visual impact is modest.
- A detailed landscaping plan is recommended as part of any conditions.
- The applicants are both local persons and would comply with the rural housing policy.
- The vehicular sightlines are adequate.
- Environment Section; Further information requested.

3.2.2. Environment; - Additional information sought in relation to foul drainage.

3.2.3. Fire Officer; - No objections

3.2.4. Roads Engineer; - Grant of permission recommended.

3.2.5. Water Services; - No objections.

### 3.3. **Third Party Observations**

There is one third party submission and the issues have been noted and considered.

### 4.0 **Planning History**

- Appeal Ref. 243740 (L.A. 14/149) – An Bord Pleanála **granted** permission for an outline permission for a single storey house to Sharon Roche. Permission subject to conditions including Condition no. 2 (f) which states that any consequent permission shall be consistent with the permitted layout and Condition no. 3 (a) which is an occupancy condition.

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

The operational Development Plan is the Carlow County Development Plan, 2015 – 2021.

In accordance with the County Development Plan Map 2.3 'Core Strategy Map' the subject site is designated 'Area Under Urban Influence'.

The County Development Plan provides guidance in relation to the following categories that would be eligible for a rural house.

- Persons who are an intrinsic part of the rural community
- Persons wishing to downsize for his/her own use and not as speculation in the rural area in which they currently reside
- Persons Residing in Bordering Counties
- Persons working full time or part time in rural areas

- Persons who are fulltime farmers or employed fulltime in other rural based activity such as horticulture, forestry, bloodstock, farming, agri-tourism or other rural based activity
- Social/Community, Medical and Personal Circumstances

## 6.0 National Guidelines

### 6.1 Sustainable Rural Housing Guidelines

The subject site is located within a 'Stronger Rural Area' as identified in Map 1: Indicative Outline of the NSS rural areas types in the DOEHLG Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that "in these areas the population is generally stable within well-developed town and village structure and in wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain area".

## 7.0 The Appeal

7.1. The following is the summary of a third-party appeal submitted by Thomas and Elizabeth Cummins;

- Permission granted is not in keeping with condition 2 (f) and condition 3 (a) of An Bord Pleanala permission (14/149).
- The owner of the subject land is a speculative site owner.
- It is submitted that no sterilisation agreement has been submitted for these subject lands in accordance with previous permissions.
- This is the fifth application on the same land as follows;
  - 02/86

- 07/1214
  - 10/56
  - 14/149
  - 17/220 (withdrawn)
  - 17/274
- The applicants work in Askea and Curragh Camp which is located 20km and 54km respectively from the appeal site. Therefore, the applicants do not live in the local area.
  - It is submitted that the application does not include a garage but one is referred to in the Road's Engineer report and the second schedule of the permission.
  - It is submitted that the information confirming that the applicants are local rural persons has not been available to the public.
  - The local road is used by walkers, cyclists and visitors to local attractions.
  - The application enjoys views towards Ballon Hill and Blackstairs Mountains.
  - The landowner has failed to maintain their front hedge.
  - The local area is an area of high amenity.
  - The proposal is visually obtrusive and a haphazard development.
  - There are many houses for sale in Ballon.
  - The local land is good agricultural land and the building of houses results in a loss of good quality tillage and grazing land.
  - Additional housing in the local area is contributing to surface water flooding.
  - The proposal will result in a bungalow blitz resulting in additional pressure on local services.

## 7.2. Applicant's Response

The following is the summary of a response submitted by the applicant's agent;

- The applicants are both from the local area.
- The applicants are both public servants. Cormac works for the Defence Forces and Bridget is a teacher.
- It submitted that as a member of the Defence Forces duty abroad is regularly required. As such the applicants are depended on local family support in these circumstances and therefore reinforcing the importance of living close to family members.
- It is applicant's desire to own an A-rated house.
- The proposed design is low rise which will integrate with the local area.
- It is submitted that the appellants appeal submission in relation to 243740 is no different to appeal submission to the current appeal.
- It is submitted that the distances used by the appellant in their local need assessment relates to driving distances whereas the appropriate distance for assessing local need is radius.
- The appellants concern in relation to autgrass is unfounded.
- The hedgerow referred to by the appellant has different heights.
- The appellant objections in relation to visual obtrusiveness and haphazard development is selective.
- The 26 no. sites identified by the appellant would not meet the criteria set out in the County Development Plan.
- It is submitted that should the applicants feel strongly about rural houses in the local area then they would have objected to L.A. Ref. 15/192 and L.A. Ref. 16/124.

### 7.3. **Observations**

None.

### 8.0 **Assessment**

I would consider that the main issues to be considered in this case are: -



- Principle of Development
- Compliance with Parent Permission
- Access
- Foul Drainage
- Appropriate Assessment

## 8.1. Principle of Development

8.1.1. A key consideration in this appeal relates to the applicant's rural housing need in this area and as such whether this housing need complies with the provisions of the Carlow County Development Plan, 2015 – 2021, and the Sustainable Rural Housing Guidelines, 2005.

8.1.2. In accordance with the provisions of the County Development Plan the appeal site is in an area designated 'Area Under Urban Influence'. The applicants argue that they would meet the rural housing policy as they are an '*intrinsic part of the rural community*'. The County Development Plan identifies persons who are an intrinsic part of the rural community within the rural housing category. Within this category the following is stated as a qualifying criterion;

- '*Immediate family member of an existing householder/landowner who is intrinsically linked to the area to include son, daughter, mother, father, sister, brother, wishing to build a permanent home for their own use in the local area*'

8.1.3. Section 2.7.1.4 of the Carlow County Development Plan, 2015 – 2021, states that '*three years shall be deemed to be the minimum period of residency necessary to be considered a member of the local community*'. It is also stated that the term local shall be construed for assessment purposes as '*within a radius of circa 8 km*'.

8.1.4. The applicants have indicated in the application documentation on a map the exact location of their family homes in relation to the appeal site. The applicant's family

homes are both located approximately 5km from the appeal site and this is not disputed by the appellant. The family home of applicant no. 1 (Cormac Maher) is in the townland of Killane and the family home of applicant no. 2 (Bridget Maher) is located in the townland of Kilnock, both a short distance apart.

8.1.5. In the support of their application the applicant's submitted parish records, school records and their marriage record. It is notable that both applicants attended primary school in Ballon, Co. Carlow which is located between their respective family homes and the appeal site. Overall, I would consider that the applicants are local rural persons intrinsically linked to the local rural area in accordance with the provisions of the County Development Plan. It is notable that the appeal site is located within an area designated 'Area Under Urban Influence' in accordance with the 'Core Strategy Map' of the Carlow County Development Plan. Whereas in accordance with the provisions of the 'Sustainable Rural Housing – Guidelines for Planning Authorities, 2005', the appeal site is located within an area designated 'Stronger Rural Areas', which is the lower category of rural housing need.

8.1.6. In conclusion I would acknowledge that both the applicants are local rural persons and their respective family homes are located within 5km of the appeal site and therefore in my view they would be both intrinsically linked to this rural community. Therefore, I would consider that the applicant would comply with the rural housing need policies and provisions of the Carlow County Development, 2015 – 2021, and as such I would recommend a grant of permission to the Board on the basis that the applicant complies with the local rural housing need provisions.

## 8.2. Compliance with Parent Permission

8.2.1. I would acknowledge that there is a previous planning permission for a house on the appeal site and this relates to (L.A. Ref. 14/149). This previous permission related to an application to construct a house and the applicant was Sharon Roche. An Bord Pleanála granted planning permission (appeal ref. 243740) for this development following a third-party appeal.

- 8.2.2. The appellant in this current appeal makes the case that the current application before the Board is inconsistent with Condition no. 3 (a) of the Board's order in relation to appeal ref. 243740. Condition no. 3 (a) of appeal ref. 243740 relates to an occupancy condition in which it is required that the permitted house will be occupied by the applicant, i.e. in that case Sharon Roche.
- 8.2.3. However, I would consider that the current application for a single storey house is submitted by a different applicant than the previous applicant (Sharon Roche) and therefore the occupancy condition, i.e. condition no. 3 (a), as set out in appeal ref. 243740 would not be relevant to the current applicants.
- 8.2.4. Paragraph 4.7 of the Rural Housing Guidelines, 2005, sets out the rationale in relation to occupancy conditions. It is based on the requirement that to comply with rural housing policies applicants must demonstrate that they are intrinsically linked to the local rural area. Therefore, the permission goes with the applicant and as this current application relates to different applicants than the named applicant in appeal ref. 243740 then I would not consider that the that condition no. 3 (a) would apply to the current application.

The applicant also argues that the current development before the Board is inconsistent with Condition no. 2(f) of the previous permission. I would not occur with this conclusion as this current application is not a consequent of the previous permission which was an outline permission.

### 8.3. Access

- 8.3.1. In considering the suitability of the proposed vehicular access I would have regard to the report by the Local Authority Road's Engineer, the planning history and a visual observation of the local area. The submitted drawing (proposed site plan) which accompanied the planning application illustrates a 90m sightline provision in either direction from the proposed vehicular entrance.

8.3.2. The Road's Engineer in his report recommends that the sightline provision for the proposed vehicular access is acceptable and that the risk of a traffic accident occurring is very limited. Furthermore, the Board will note that permission was granted previously (appeal ref. 243740) for a vehicular access to serve a proposed house.

8.3.3. I noted from a visual observation of the local area that the sightline provision in both directions from the proposed entrance is generally good. Overall, I would consider that the proposed development would be acceptable in terms of traffic access and would not give rise to a traffic hazard.

#### 8.4. Foul Drainage

8.4.1. It is proposed that the single storey house will be served by a septic tank, percolation area and a bored well.

8.4.2. In relation to waste water treatment I would note from the submitted Site Characteristic Form that the recorded T-value is 19.75. The E.P.A. publication, Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses, 2009, advises that T value between 3 and 50 that the site is suitable for development of a septic tank or a secondary treatment system. The Site Characteristic Form recommends a proprietary packaged wastewater treatment system and a packaged tertiary treatment filter be used.

8.4.3. The Area Engineer, in his report dated 12<sup>th</sup> December 2017, considers the proposal acceptable. I would consider that the waste water treatment proposals are acceptable.

#### 8.5. Appropriate Assessment

The nearest designated Natura 2000 Site is the River Slaney SAC (site code 000781) and the appeal site is situated approximately 550m to the west of the

Natura 2000 designated site. It is intended that the proposed house will be connected to a bored well and an on-site treatment system. Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise. I would note that the Local Authority in their AA Screening Assessment concluded that an Appropriate Assessment was not required and I would concur with this conclusion.

## **9.0 Recommendation**

9.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission shall be granted for the reasons set out below.

## **10.0 Reasons and Considerations**

Having regard to the location of the site, the nature of the proposal, the rural housing policies of the Carlow County Development Plan, 2015 – 2021, and the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, it is considered that, subject to compliance with conditions set out below, the proposed development would not be prejudicial to the amenities of the area and would be acceptable in terms of traffic safety. The proposal would therefore be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by plans and particulars submitted to Carlow County Council on 1<sup>st</sup> December 2017 and, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in

accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
  - (a) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The entire premises shall be used as a single dwelling unit only.

**Reason:** To prevent unauthorised development.

4. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

5. The proposed vehicular entrance shall be designed and constructed in accordance with the requirements of the planning authority. Details shall be agreed with the planning authority prior to the commencement of development.

**Reason:** In the interests of traffic safety.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

**Reason:** In the interest of orderly development and the visual amenities of the area.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

8. Surface water from the site shall not be permitted to drain onto any public

roads.

**Reason:** In the interest of traffic safety.

9. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the works.

**Reason:** To protect the amenities of the area.

10. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to the planning authority for agreement before development commences. The scheme shall include a timescale for its implementation.

**Reason:** In the interest of visual amenity.

11. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of amenities and public safety.

12. 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.

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Kenneth Moloney  
Planning Inspector

20<sup>th</sup> April 2018