



An
Bord
Pleanála

Inspector's Report ABP-302042-18.

Development	Dwelling house, entrance, connection to public sewerage, bored well and all associated site works.
Location	Coan West, Co. Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	18/12.
Applicant(s)	Patrick J. Manning.
Type of Application	Outline Permission.
Planning Authority Decision	Grant Outline Permission.
Type of Appeal	Third Party V. Decision.
Appellant(s)	Gerard and Patricia O'Neill.
Observer(s)	None.
Date of Site Inspection	14 th October 2018.
Inspector	Susan McHugh.

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Coan West in a rural area in the north east of County Kilkenny. The site is located approx. 300m to the south of the small village of Coan, approx. 7.5km south east of Castlecomer and 14km south west of Carlow Town. The area is characterised by one off detached houses on the several approach roads to and from the village. The Dinin River runs north south between the upland areas of Coan West and Coan East.
- 1.2. The site has road frontage along a local road L55880 which has a speed limit of 80km/ph. This road defines the sites eastern boundary and is delineated by mature planting. The northern boundary is defined by planting and abuts a driveway access serving a disused farmhouse and farmyard located to the north west of the appeal site. The western and southern boundaries are defined by mature planting also.
- 1.3. There are rushes on site and a small stream which traverses the north-eastern corner of the site before joining the Dinin River further south. The site rises from the public road towards the rear and slopes downhill towards the appellants property further to the south.
- 1.4. The site which is roughly rectangular in configuration has a stated area of 0.427ha. and forms part of a larger landholding.

2.0 Proposed Development

- 2.1. Outline permission is sought for the construction of a single storey dwelling house. The proposed house would be located in the centre of the site i.e. on the higher part of the site.
- 2.2. It would be served by an access driveway off the local road. It is proposed to remove approx. 30m of hedgerow on the northern side of the new entrance to provide sightlines.
- 2.3. It is proposed to connect to the public sewer, and to provide a soakaway to the front/east of the dwelling. The means of water supply is from a private bored well located to the south of the appeal site.

- 2.4. The application was accompanied by a letter of consent from the owner of the site Tom Keane for the applicant to apply for outline planning permission and to set back fence lines to provide the necessary visibility lines.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to **grant** outline permission subject to 12 standard conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports** (dated 21/02/2018 and 04/05/2018)

Basis for planning authority decision. Includes:

- Site is located in an area of population decline as per the Council's Rural Housing Policy.
- Applicant has indicated that the proposed dwelling is for his own occupation, but is not willing to enter into an occupancy condition.
- Considers that the applicant complies with the rural settlement strategy.
- The proposed dwelling would be the fourth dwelling within 280m.
- There is a gap between the subject site and the dwelling to the south which is located within 45m from the south site boundary.
- Having consulted with the Environment Section it is not considered that the proposed development will lead to adverse impacts on the water supply of the dwelling to the south.
- Noting the separation distance and boundary to the south along with issues raised in relation to residential amenity of this property, applicant is requested to relocate the dwelling to within 15m of the northern site boundary.
- Applicant requested to submit two cross sections along a north-south and east-west axis through the site, to extend to the dwelling to the south, and the

level of the public road, and include finished floor levels of both proposed and existing dwelling.

- Recommend a condition in relation to landscaping proposals for the southern site boundary.
- Response to request for further information received 17/04/2018 acceptable but did not include finished floor levels. Further details submitted by way of clarification of additional information received 22/05/2018 were considered acceptable.

3.2.2. Other Technical Reports

Area Engineer – No objection subject to conditions.

Environment Section – No objections subject to conditions.

3.3. Prescribed Bodies

Irish Water – No objection subject to requirements.

3.4. Third Party Observations

One third party objection was received by the planning authority has been forwarded to the board and is on file for its information. The issues raised are comparable to those raised in the third-party appeal summarised in section 6 below.

4.0 Planning History

There is no planning history pertaining to the appeal site.

Adjoining site to the North

P.A. Reg. Ref. 17/379: Outline Permission was **granted** 29/08/2017 to Tom Keane for construction of a dwelling house with detached garage, entrance

connection to main sewerage system, bored well and all associated site works. This permission has not been implemented and the site is currently for sale.

Farm Buildings to the North West

P.A. Reg. Ref. 08/1550: Permission **granted** 23/03/2009 to Thomas Keane to erect a 16 pen 1532sq.mt. straw bed dairy goat shed and associated site works.

Appellants Dwelling further to the South

P.A. Reg. Ref. 92/0794: Permission **granted** 11/05/1999 to Gerard O'Neill to demolish existing cottage and erect new 3 bed roomed bungalow, garage & septic tank. No documents available from Council website.

5.0 Policy Context

5.1. Kilkenny County Development Plan 2014-2020

Chapter 2 refers to *Demographic and Socio-Economic Trends*. Figure 2.1 is a map of the county indicating population change between 2006-2011. (See map attached)

Chapter 3 refers to *Core Strategy*. Figure 3.1 is a map indicating the overall strategy for the county and identifies different rural areas largely corresponding with the types of rural areas identified in the guidelines on rural housing. (See maps attached)

Section 3.5 refers to rural settlement strategy and it is indicated that the objective 'is to provide sustainable rural communities without compromising the physical, environmental, natural or heritage resources of the county'.

The county is divided into three broad categories;

1. Areas Under Urban Influence
2. Strong Rural Areas
3. Peripheral Areas of Population Decline

The site is located on the boundary of two of these categories. The site is located in an area defined as within a 'Peripheral Area of Population Decline', but is on the

boundary with the area defined as a 'Strong Rural Area' see Figure 3.17. (See map attached)

Section 3.5.2.4 refers to Peripheral Areas of Population Decline

'In these areas it will be the policy of the Council to accommodate any proposals for individual rural or urban generated permanent residential development subject to meeting normal planning and environmental criteria.

In all cases the consideration of individual sites will be subject to normal siting and design considerations, which will include but not necessarily be limited to the following:

- *Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard,*
- *That any proposed on-site waste water disposal system is designed, located and maintained in a way which protects water quality,*
- *That the siting and design of new dwellings takes account of and integrates appropriately with its physical surroundings and other aspects of the natural and cultural heritage and,*
- *That the proposed site otherwise accords with the objectives of the development plan in general.'*

Section 3.5.3 refers to Rural House Design Guidance

The Design Guide produced in 2008 sets out best practice in the design and siting of one-off rural housing, and offers advice on site choice, local design and landscaping.

Chapter 11 of the plan refers to Transport and **Section 11.7.8.2** to Roads Development Management Standards and refers to

'to ensure that the required standards for sight distances and stopping sight distances are in compliance as far as possible, with current geometry standards as outlined in the NRA document Design Manual for Roads and Bridges (DMRB) specifically section 41-42/09 when assessing planning applications for individual houses in the countryside. Such standards should not be achieved by the extensive

removal of hedgerows, diitches, embankments, trees or old walls, and should be in accordance with Section 2.8 of the Rural Design Guide.'

Chapter 12 of the plan refers to requirements for developments and **Section 12.10** outlines guidance in relation to rural housing in relation to siting design and services.

5.2. National Policy

5.2.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2.2. Sustainable Rural Housing Guidelines, DoEH&LG 2005.

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural typologies are identified including 'stronger rural areas' which are defined as those with generally stable population levels within a well-developed town and village structure and in the 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 areas.

Examples are given to the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.3. Natural Heritage Designations

The following European sites are within a 15km radius of the appeal site.

Site Name	Designation	Site Code	Distance
River Barrow and River Nore SAC	SAC	002162	17m S
River Nore	SPA	004233	15km S

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal against the decision to grant outline permission by the planning authority has been lodged by Gerard and Patricia O'Neill, may be summarised as follows;

Residential Amenity

- Siting of the proposed house would impact on privacy.
- Outline planning permission has already been granted for another house nearby, and the potential for further applications would change the character of this quiet rural area.

Water Supply

- Absence of a public water system in the area.
- Concern that the construction of additional houses could adversely affect the level of the water table, leading to diminished flow and /or pollution of existing water supply.
- Uncertainty in relation to the availability of sufficient water to service the existing homes on the road in addition to two or more houses.

6.2. Applicant Response

None.

6.3. Planning Authority Response

The planning authority responded to the third-party appeal on 31/07/2018 and had no further comments to make.

6.4. Observations

None received.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment and Environmental Impact Assessment also needs to be considered. The issues are addressed under the following headings.

- Compliance with Rural Housing Policy
- Visual & Residential Amenity Issues
- Water Quality
- Access and Road Safety
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Compliance with Rural Housing Policy

7.2.1. The current settlement strategy for Co. Kilkenny is clearly set out in the County Development Plan (2014-2020) and summarised in section 5.1 above.

7.2.2. Figure 2.1 of the county development plan indicates that the appeal site is located within an area of population increase (between 0 to 6%) in the period between 2006-2011.

7.2.3. By contrast the Core Strategy Figure 3.1 and Rural Settlement Strategy Figure 3.17 of the plan indicate that the appeal site is located on the edge of a 'Stronger Rural Area', but within a rural area designated as 'Peripheral Areas of Population Decline'.

7.2.4. The appeal site is located outside the settlement of Coan. It is approximately 7.5km south east of Castlecomer which is designated as a District Town in the settlement hierarchy. The plan notes that '*District Towns have well developed services and*

community facilities and have the capacity to accommodate additional growth (subject to certain physical infrastructural investments).' I also note that the appeal site is located approximately 14km south west of the adjoining County Town of Carlow.

- 7.2.5. Clear policy is set out at both a national and local level regarding rural housing need. The 'Sustainable Rural Housing Guidelines for Planning Authorities' actively seeks to direct pressure for new residential development to the nearby established settlements. National Policy Objective 19 of the National Planning Framework (NPF) refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. National Policy Objective 19 also refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.2.6. Section 3.5.2.4 of the county development plan seeks to accommodate any proposals for individual rural or urban generated permanent residential development in Peripheral Areas of Population Decline, subject to criteria in relation to traffic safety, water quality, siting and design and in accordance with the objectives of the development plan in general.
- 7.2.7. The applicants have indicated in their application that they -
- Currently live in Johnswell which is unsuitable in terms of location and accommodation, and wish to continue living in North Kilkenny.
 - Applicant's mother was from Smithstown, Castlecomer and her dwelling was located in Muckalee parish 2.5miles from the site.
 - Applicant's family have a long association with this area and are deeply rooted in the agricultural and social fabric of the parish.
 - Self-employed as a media trainer and campaign manager and works all over Leinster.
 - Intend to construct the dwelling house for their own use, but is not willing to accept an occupancy condition.

- 7.2.8. I am therefore, satisfied on the basis of the information on file that the applicant has submitted adequate evidence to demonstrate compliance with the Rural Housing Policy set out in the current Development Plan.
- 7.2.9. However, having regard to the location of the subject site on the edge of a 'Stronger Rural Area' and proximity to the District Town of Castlecomer and County Town of Carlow, the proposed development must also be assessed under national planning policy guidance as set out in National Policy Objective 19 of the National Planning Framework (NPF) and the Sustainable Rural Housing Guidelines. These policies seek to direct housing need in areas under urban influence towards towns and villages as more sustainable locations.
- 7.2.10. In this regard, I note that the applicant already owns a house which is located approximately 10km to the south of the appeal site and approximately 7km from Kilkenny City. The nature of the applicants work also does not require residency at this location. I consider therefore, that the applicant has failed to demonstrate a defined economic or social need to reside in this location.
- 7.2.11. I am not satisfied therefore, that the current proposal complies with Objective 19 of the NPF, and the guidance set out in the Sustainable Rural Housing Guidelines.
- 7.2.12. I recommend, therefore, that outline planning permission be refused on this basis.

7.3. Visual & Residential Amenity Issues

- 7.3.1. In terms of the proposed development, there will be a visual impact associated with the construction of a house on the site particularly as the siting of the house is higher than the local road and part of the existing front boundary is to be removed to create an entrance and provide adequate sightlines. I would note however that the subject application for outline planning permission is for a single storey house only, and the detailed design will be consequent to a future application for an approval of outline permission.
- 7.3.2. The third party has raised concerns that the proposed dwelling would impinge on the privacy of their dwelling. In this regard I note that the planning authority had similar concerns and sought revised site layout plans indicating the relocation of the proposed house further from the sites southern boundary. They also sought cross

section drawings and site levels including finished floor levels of the proposed and existing house to the south.

- 7.3.3. As already noted the appeal site is higher than the appellant's property to the south and is well screened along its southern boundary. Another plot/field separates the appeal site from the northern/rear boundary of the appellant's property and the southern boundary of the subject site. The appellant's property is located perpendicular to and has frontage onto the L55880. The rear elevation and rear garden of this single storey house is orientated northwards and is defined by mature planting.
- 7.3.4. In response to the request for further information the applicant relocated the proposed house on site such that it is set back 25.1m from the southern/side boundary. This results in an overall separation distance of 82.2m between the narrow gable of the proposed house and the rear elevation of the appellants single storey house.
- 7.3.5. The cross-section drawings submitted by way of further information and clarification of further information indicates that site levels would be lowered on site to accommodate the modest dwelling. The proposed finished floor level is indicated as approx. 103.50OD relative to the finished floor level of the adjacent dwelling of 97.60OD. While I accept a difference of approx. 5.9m in site/finished floor levels is significant, in my opinion the mitigating factor in this instance is the very generous separation distance between both properties, in addition to existing planted boundaries along the southern boundary of the appeal site and the northern/rear site boundary of the appellants property.
- 7.3.6. In my opinion, the impact in terms of privacy has been overstated and the existing boundaries provide more than adequate screening to both properties. I am satisfied that the proposed development will not result in undue overlooking or invasion of privacy of the appellants' property.
- 7.3.7. I am satisfied therefore, that there is no basis to this ground of appeal.

7.4. Water Quality

- 7.4.1. I note the concerns raised by the appellants in relation to the potential for a reduced water supply and/or contamination of their existing water supply which is served via

a bored well. The location of the existing bored well on their property has not been indicated.

- 7.4.2. I also note that the proposed bored well to serve the proposed dwelling, is located uphill from the appellant's property. The proposed bored well and the overall site of the appellants property are located within an area of 'Low' groundwater vulnerability as indicated by the Geological Survey of Ireland, (see map attached).
- 7.4.3. Importantly, it is not proposed to provide on-site waste water treatment, and instead to connect to the existing public sewer and nearby waste water treatment plant via a sump and pump located in the north-eastern part of the site. The soakpit proposed to cater for surface water is located to the front of the site also and downhill from the location of the bored well.
- 7.4.4. In the context of the location of the proposed bored well to the rear of the proposed dwelling house and approx. 50m distance from the appellants northern site boundary, I consider the risk of a reduced water supply or contamination of the water supply very unlikely. I note that the Environment Section of the planning authority and Irish Water had no objection to the proposed development.
- 7.4.5. I am satisfied therefore, that there is no basis to this ground of appeal.

7.5. **Access and Road Safety**

- 7.5.1. The appeal site has a road frontage along the L55880 of approx. 58.5m. It is proposed to create a new vehicular entrance from this local road to serve the proposed dwelling, where a speed limit of 80kmph applies. The applicant has indicated that, in order to provide sightlines of 90m in both directions, a section of existing hedge on the northern side of the entrance only is to be removed. The new boundary which is to be set back will comprise a post and wire fence with selected planting behind. This is in accordance with the standards as set out in the Design Manual for Roads and Bridges (DMRB) and was acceptable to the Area Engineer of the planning authority.

7.6. **Appropriate Assessment**

7.6.1. I follow the staged approach to screening for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

7.7. *Project Description and Site Characteristics*

7.7.1. The proposed development is as described in the report above and in the application submissions as revised.

7.7.2. *Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives:*

Site Code, Site Name and Designation	Approx. distance from the site	Conservation Objectives; Qualifying Habitats and Species	Relevant source-pathway-receptor links between proposed development and European site?
River Barrow and River Nore SAC (002162)	17m	<p>The generic conservation objective is to maintain or restore the favourable condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>Desmoulin's whorl snail Freshwater pearl mussel White-clawed crayfish Sea lamprey Brook lamprey River lamprey Twaite shad Atlantic salmon (only in fresh water) Estuaries Mudflats and sandflats not covered by seawater at low tide <i>Salicornia</i> and other annuals colonizing mud and sand Atlantic salt meadows Otter Mediterranean salt meadows Killarney fern Nore freshwater pearl mussel Water courses of plain to montane levels with the and <i>Callitriche-Batrachion</i> vegetation European dry heaths Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels Petrifying springs with tufa formation Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>	Yes, Due to the hydrological link between the site and the SAC.

7.8. *Assessment of likely Effects*

7.8.1. The River Dinin which forms part of the River Barrow and River Nore SAC is located less than 20m from the appeal site. Based on the source-pathway-receptor

approach, there is a hydrological connection to this SAC via the stream which runs along north-eastern corner of the site before being culverted under the L55880 and resurfacing next to the River Dinin further to the south. However, I note that foul effluent from the proposed development is to be contained in a sump and pumped to an existing public sewer and waste water treatment plant, and subject to the requirements of Irish Water the proposed development would not give rise to appropriate assessment issues.

7.8.2. The proposed development will not have any significant impacts, direct or indirect, on the qualifying species or habitats of the Natura 2000 site listed above.

7.8.3. In terms of in-combination impacts, the site taken in the context with existing development, is not considered to result in likely significant effects.

7.9. *Screening Statement and Conclusions*

7.9.1. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.10. **Environmental Impact Assessment**

7.10.1. Having regard to the nature of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 **Recommendation**

8.1. I recommend that outline planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The subject site is located in a rural area which is identified as on the edge of a 'Stronger Rural Area', as set out in the Kilkenny County Development Plan 2014-2020, and as being within a 'Stronger Rural Area' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government. On the basis of the documentation submitted in support of the planning application and the appeal, and in particular the proximity of the site to nearby established settlements and nature of employment of the applicant, the Board is not satisfied that the applicant has demonstrated any rural generated housing need for a dwelling at this rural location contrary to National Policy Objective 19 of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate

26th November 2018