



An
Bord
Pleanála

Inspector's Report ABP-302068-18.

Development	Construction of house, waste water treatment system and associated site development works
Location	Mullins Cross, Dunleer, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	17/942
Applicants	Mr Stephen Hurley
Type of Application	Full planning permission.
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	3 rd Party
Appellant(s)	Mr Peter McKeown
Observer(s)	None
Date of Site Inspection	8 December 2018.
Inspector	Padraic Thornton

1.0 Site Location and Description

- 1.1. The site is located in a rural area about 2 Kilometres to the west of the village of Drumcar and a similar distance east of junction 14 on the M1. Junction 14 provides a linkage, westwards to Ardee from the M1, and a linkage, eastwards to the rural area south of Castlebellingham and north of Dunleer. The site is located on the north side of the local road which links into junction 14 to the west. There is a junction with the old national road now Regional Road 132 about 350 metres to the east of the site of the appeal.
- 1.2. The road, off which access is proposed, has a carriageway width of about 5.5 metres. It is relatively straight at the site frontage. There is however a continuous white line along the centre of the road at the site frontage and there is a broad bend on the road to the west. The site is on the outside of this bend. The road dips downwards towards the east. An 80 Kilometre per hour speed limit applies at this location. There is a grass verge about 1 metre wide on the north side of the road and there is a drainage channel also about 1 metre wide to the rear of the grass verge. There is a bush hedge at the site frontage and at the frontage of the lands to the east of the site. (There is a gate at the frontage immediately to the east of the appeal site frontage). There is no roadside boundary wall or hedge to the front of the house on the lands to the west.
- 1.3. The house in the lands to the west (the appellant's house) has been constructed about 8 metres from the existing post and wire fence which separates the house curtilage from the lands to the east. The submissions from the applicant are to the effect that the fence has been constructed further to the east than the boundary of the lands which have been acquired and the fence is within the site of the proposed development. The plans submitted indicate the house to the west being located between about 2.35 and 4 metres from the western boundary of the appeal site. There is no boundary wall or fence at the eastern boundary of the appeal site. The site is currently part of a field in agricultural use. There is a relatively new house located at the eastern end of the field of which the site forms part. There are also 2 entrances from the public road to properties located in the lands on the south and opposite side of the road from the appeal site. These entrances indicated on the photographs submitted by the appellant are a short distance to the east of the

frontage of the site of the proposed development. There are some sheds located in lands to the west of the appellant's house. There is a high wall and recessed entrance to the front of these lands which appear to be used as a vehicle dismantling or scrappage depot.

- 1.4. The site dips down towards the east. There was no obvious indication of a high water-table level, poor drainage or severely impeded percolation at the time of inspection. Trial holes had been closed in at the time of inspection. The soil did however appear to be sticky and indicative of low permeability.

2.0 Proposed Development

- 2.1. The proposal is to construct a four-bedroom part single and part 2 storey house on a site of .216 Hectare. The revised plans submitted on 30 May indicate that the house would be located 10.7 metres to the east of the western site boundary. (This does not, according to the applicant, correspond with the fence as currently erected). The front part of the house would contain 2 bedrooms within the roof area. These bedrooms would be served by velux windows on the front and rear slopes of the roof. A west facing window originally proposed on the west facing gable at first floor level has been omitted in the revised plans submitted on 30th May 2018
- 2.2. The plans indicate sight lines of 75 metres by 3 metres by 1.05 metres being available at the access proposed without interference with the existing hedge row at the roadside boundary of the lands to the east. The access proposed would be located near the western, and higher, end of the site frontage.
- 2.3. The water supply to the house would be from the public water main which is indicated as being in the public roadway at the site frontage. A proprietary effluent treatment system is proposed. This would be located in the front garden of the house. Surface water would be discharged to the ground through a shallow detention basin located near the northern or rear boundary of the site. The plans indicate a proposed timber ranch style fence, back planted with a white hawthorn hedgerow, along the western, northern and eastern boundaries of the site.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant planning permission subject to 8 conditions.

Condition number 1 requires that the development shall be carried out in accordance with the plans and specifications submitted on 19th of December 2017 as revised by those submitted on 30th of May 2018.

Condition number 2 restricts the occupancy of the house to the applicant or his heirs for a period of at least 7 years unless consent in writing is granted by the planning authority for occupancy by other persons who qualify under the appropriate criteria for the area. A section 47 agreement is required in this regard.

Condition number 3 requires the provision of visibility splays of 7.5 by 3 by 1.05 to 0.6 metres to the edge of the carriageway prior to the commencement of any other works on site. The condition also requires, inter-alia, that the roadside drain shall be piped with a 300mm diameter pipe.

Condition number 8, which contains several sub-sections, deals with the proposed effluent treatment system

3.2. Planning Authority Reports

3.2.1. Planning Report

The initial planning report requested additional information. The information requested included additional information required to justify compliance with rural house criteria set out in the development plan, clarification of land ownership, relocation of the proposed house to be more in line with that to west, the omission of a first floor window proposed on the western elevation, confirmation of the name of the person who would supervise the installation of the effluent treatment system, supervised percolation testing, confirmation that the roadside drain would be piped and a revised layout showing visibility of 7.5 by 3 by 1.05-0.6 metres in each direction from the access. Following the submission of revised plans etc on 30 May the final

planning report recommended the granting of planning permission subject to the conditions imposed in the decision.

3.2.2. Other Technical Reports:

The report from the Environmental compliance section dated 10 April 2018 stated that an unsuccessful attempt had been made to carry out percolation tests on 9 April because the test holes were full with water. A later report dated 9 May stated that tests carried out that day indicated adequate percolation. It appears that the new tests were carried out towards the front of the site. A further report dated 5 June states that the applicant had submitted adequate information to satisfy the Environmental Compliance Section that there will be no threat of environmental pollution from the development. Planning permission subject to conditions was recommended. The conditions included compliance with the relevant EPA Code of Practice 2009.

Following an initial report requesting further information a further report from the Infrastructure Office was submitted on 13 June 2018. This was endorsed by the senior executive engineer and it recommended permission subject to various conditions which have been attached to the planning authority's decision.

A response from Irish Water indicated no objection to the proposed development.

4.0 **Planning History**

There is no record of any planning history relevant to this site.

5.0 **Policy Context**

5.1. **Development Plan**

Policy SS18 of the current Co Louth development plan states, in dealing with the council's policy in relation to one off housing in rural areas, that it is policy 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.

Policy SS19 states that applicant's for one-off rural housing must demonstrate compliance with the local needs qualifying criteria relevant to the respective Development Zone.

The current site is located in Development Zone 5. Various criteria are set out for local need for this area including residence in the area for a minimum period of 10 years, having a rural housing need and not owning or having owned a house in the area for a minimum of 5 years.

The strategic objective for Development Zone 5 stated in the development plan is to protect and provide for the development of agriculture and sustainable rural communities etc.

The minimum size of site applicable for a house in Development Zone 5 is 0.2 Hectares. The development plan requires that the requirements of the EPA Code of Practice for Wastewater Treatment Systems for Single Houses (2009) be complied with.

Table 7.4 of the development plan sets out visibility standards required for accesses onto various road types. The relevant standard required in this case is 75 by 3 by 1.05/0.6 metres. This requires visibility of 75 metres along the edge of the road from a point 3 metres back from the edge of the road at a level of 1.05 metres above road level (extending down to 0.6 metres). There is provision for reducing the distance back from the edge of the road from 3 to 2.4 metres in difficult situations.

Natural Heritage Designations

There is no European or nationally designated site in the immediate vicinity of the site in question in this application. The nearest designated sites are the

Stabannan/Braganstown SPA and the Dundalk Bay SAC/SPA. These are stated to be at a distance of 3 and 4.7 Kilometres respectively from the site.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is on the basis that the development would give rise to traffic hazard due to the number of access points which would be present on the road at the location and due to the sight distance, which would be available to the east at the proposed access. The appellant questions if sight distance to the east of 75 metres can be provided from a point 3 metre back from the road edge without interference with the hedge to the front of the lands to the east of the site of the proposed development. The appellant refers to the traffic flow and speed on the road in question and submits that a publication by Transport Infrastructure Ireland indicates that a sight distance greater than 75 metres would be required. It is submitted that there would be 6 accesses on a 100 metre stretch of road if permission is granted. Details of a week- long traffic count carried out at the front of the appellant's house to the west of the appeal site were submitted with the grounds of appeal. This indicates a two flow of 15194 vehicles in both directions in a 7- day period.

6.2. Applicant Response

The applicant's consultant states that sight distances as required by the County Louth development plan are being provided as indicated in the response to the request for further information received from the planning authority. It is also submitted that there is nothing in the development plan in relation to the number of entrances which would be permitted along a section of road. Reference is made to a situation 700 metres to the west where there are 11 entrances, in a 190 metre stretch of the same road. It is submitted that grouping or clustering of access points is preferable than a series of isolated entrances along the road. The creation of an additional entrance does not breach any known standard or policy.

6.3. **Planning Authority Response**

The planning authority in responding to the appeal submits a comment from the infrastructure office which states that the recommendation to grant permission subject to conditions was warranted.

6.4. **Observations**

No observations have been received on the appeal.

7.0 **Assessment**

7.1. The road off which access would be provided is relatively busy for a local or county road. The traffic count of 15194 vehicles in both directions over a 7-day period or an average per day of 2170 per day is relatively high for a local road but is not exceptionally high. The road is relatively straight and is wider than many local roads in the county with a carriageway width of about 5.5 metres. I am satisfied from the further information submitted, the decision of the planning authority and my inspection that sight distances to the requirements of the development plan can be provided at the entrance. I would also point out that traffic approaching from the east would be on the opposite side of the road. I consider that a sight distance of over 100 metres can be provided to the centre of the road. I also note the development plan reference to reducing the 3 metres setback to 2.4 metres in difficult situations although I do not consider this reduction required in the current case.

7.2. Six entrances in a section of 100 metres is also not exceptional particularly when field entrances to farm lands, such as that to the east of the site frontage, are included. The applicant's agent has referred to the row of entrances located a short distance to the west. I also agree that if it is considered reasonable to permit additional entrances to houses along the road it is preferable to have them grouped together than strung along the road in the open countryside.

7.3. The appellant has referred to the TII publication Geometric Design of Junctions and included some tables etc from that publication. I note that table 5.4 refers to the possible relaxation of the sight distance for an access onto a regional or local road to allow for the required distance along the road edge to be measured from a point 2

metres back from the road edge. Sight distances well over 100 metres would apply in the current situation if this is factored into the assessment.

7.4. I consider that the fact that there is easy access to the M1 motorway is a factor in the relatively high volume of traffic on the road. I consider that this ease of access to the motorway would give rise to pressure for development along the local roads in the area if planning permissions were easily obtained. I consider that intensive residential development along the local roads in this area would not be in accordance with the proper planning and sustainable development of the area. The planning authority policy, however, is to control development and limit residential permissions to justified local need criteria. This policy has been applied in the current case. On the basis of the documentation I accept that the exception to normal policy has been justified.

7.5. The site assessment indicated a relatively high water-table level and relatively low soil permeability (High T value). Following supervised testing of the permeability the planning authority is satisfied that a foul water effluent treatment system compliant with the EPA Code of Practice can be provided. In these circumstances I consider that subject to conditions requiring that the installed system shall be in accordance with the Code of Practice the development would not give rise to pollution of ground or surface waters.

7.6. I do not consider that the development proposed would endanger public safety by reason of traffic hazard as argued in the grounds of appeal. The development would be in accordance with the policy provisions set out in the development plan. In the circumstances I consider that planning permission should be granted.

7.7. Environmental Impact Assessment

I consider that the proposed rural house does not fall within any of the classes of development set out in Annex I or Annex II of the EU EIA Directive. I also consider that if it is considered to fall into any of the classes referred to in would not be likely to have any significant effects on the environment having regard to its nature and scale, its location and the nature of any potential impact. In these circumstances I consider that an Environmental Impact Assessment of the development is not required.

7.8. Appropriate Assessment.

The closest designated European Sites to appeal sites are the Stabannan/ Braganstown SPA and the Dundalk Bay SAC/SPA. These are located at distances of 3 and 4.7 Kilometres respectively from the site. Having regard to the nature and small scale of the proposed development and connectivity between the site and the sites in question I agree with the conclusions in the planning report that the development, individually or in combination with any other project, would not have any significant effect on the designated sites in question. I consider, accordingly, that a second stage appropriate assessment, as referred to in Article 6(3) of the EU Habitats Directive is not required.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted, based on the reasons and considerations set out below, subject to the conditions listed below.

9.0 Reasons and Considerations

Having regard to the provisions of the current County Louth Development Plan and to the width and alignment of the road off which access would be provided it is considered that the proposed development would not endanger public safety by reason of traffic hazard or be otherwise contrary to the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 30 day of May 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity and to ensure that the development is carried out in accordance with the plans and specifications submitted.

2. Visibility splays of at least 75 metres, along the inner edge of the carriageway of the public road, shall be provided from a point 3 metres back from the edge of the carriageway at the centre of the entrance, at a height of 1.05 metres to 0.6 metres, in both directions from the entrance to the development.

Reason: In the interest of road safety

3. The proposed surface water soak-way shall be constructed in accordance with the details submitted to the planning authority and the drive-way to the house shall have a permeable gravel surface. The ditch at the road frontage shall be culverted with a 300mm diameter pipe as indicated in the submitted plans. All surface water from the site shall be disposed of on-site and shall not be permitted to flow onto the public road.

Reason: To provide a sustainable surface water drainage system and to prevent flooding on the public road

4. The roof of the house shall be finished in blue/black slates or tiles and the external finish of the walls shall be in smooth plaster, dash or natural stone. Landscaping as indicated on the submitted plans shall be carried out prior to the house being occupied or in the first planting season immediately thereafter. Details of the front boundary treatment shall be submitted for the written agreement of the planning authority, prior to the commencement of development and works shall be carried out in accordance with the written agreement.

Reason: In the interest of visual amenity and to assimilate the development into the landscape

5. (a) 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. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000, as amended, to this effect.

(b) 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 the occupation of the dwelling 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.

6. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála

to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

7. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 19 day of December 2017, as modified by plans and specifications submitted on 30 day of May 2018, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. All works involved in the wastewater treatment and disposal system shall comply with the code of practice referred to. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person, with professional indemnity insurance, certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

Padraic Thornton
Planning Inspector

13 January 2019