



An
Bord
Pleanála

Inspector's Report ABP – 304388 – 19

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| Development | Construction of a dwelling house together with all associated site works. |
| Location | Macetown, Tara, County Meath. |
| Planning Authority | Meath County Council. |
| Planning Authority Reg. Ref. | AA190176. |
| Applicant | Dermot Brennan. |
| Type of Application | Planning Permission. |
| Planning Authority Decision | Grant. |
| Type of Appeal | Third Party. |
| Appellant | Gordon & Zoe Brangan. |
| Observer(s) | None. |
| Date of Site Inspection | 29 th July 2019. |
| Inspector | Patricia-Marie Young. |

Contents

| | |
|---|----|
| 1.0 Site Location and Description | 3 |
| 2.0 Proposed Development | 4 |
| 3.0 Planning Authority Decision | 4 |
| 3.1. Decision | 4 |
| 3.3. Prescribed Bodies | 4 |
| 3.4. Third Party Submission | 5 |
| 4.0 Planning History..... | 5 |
| 5.0 Policy & Context | 5 |
| 5.1. National Policy Provisions | 5 |
| 5.2. Local Planning Context | 6 |
| 6.0 The Appeal | 7 |
| 6.1. Grounds of Appeal | 7 |
| 7.0 Assessment..... | 9 |
| 8.0 Recommendation..... | 13 |
| 9.0 Reasons and Considerations..... | 13 |
| 10.0 Conditions | 13 |

1.0 Site Location and Description

- 1.1. The appeal site, which has a states area of 0.3285ha, is located in the Townland of 'Macetown', c1.4km to the south west of the village of Rathfeigh, as the bird would fly, and c1km to the south of local road (New Line Road), in County Meath. The long and linear shaped site benefits from an existing access onto the 'Macetown Road' at a point where this local road is restricted in its width, in places poorly surfaced and has a meandering alignment. It is also characterised by a significant number of one-off detached dwellings, with the site bound on either side, by such developments.
- 1.2. The road frontage of the site contains several mature indigenous trees and a native hedgerow. This I observed is similar to large stretches of the Macetown Road which can be described as having a strong sylvan character.
- 1.3. The existing road entrance appears to accommodate agricultural access to the site and the pastureland adjoining the rear of the site. The latter I note is outlined in blue in the Site Layout drawings provided with this application.
- 1.4. The northern boundary also contains a mature tall hedgerow for c78m after which it is demarcated by a timber post and rail fence. Immediately to the north of the post and rail fence there is a dormer style detached dwelling with windows and a patio door facing into the site. The southern boundary contains a mature hedgerow which continues alongside the boundary of an adjoining single storey dwelling and further eastwards along the entirety of this side boundary which is also adjoined by a parcel of agricultural land.
- 1.5. Setback c48m from the roadside boundary is a single storey stable building and running alongside the southern boundary is demarcated access road that serves it and the pastureland to the east and west of it. The northern side of this access road is demarcated by timber post and rail fencing which returns to attach onto the southern elevation of the stable building. This stable building appeared to be currently in agricultural use for storage of hay and appears to be structurally sound.
- 1.6. The ground levels of the site are relatively flat, and the ground conditions were firm underfoot on the day of my site inspection. I observed no significant evidence of water loving plant species or the presence of a high-water table despite the rear boundary of the site being situated, at its nearest point, c100m to the west of the Hurley River.

2.0 Proposed Development

2.1. Planning permission is sought for the following:

- Construction of a 2-storey detached dwelling house;
- Relocation of an existing entrance gateway;
- Setback and realignment of the existing roadside boundary;
- Provision of a wastewater treatment system and polishing filter; and,
- All associated site works and services.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **grant permission** subject to conditions including –

Condition 2: Occupancy Clause.

Condition 5(a): Omits the first-floor bedroom window in the northern elevation of the proposed dwelling.

Condition 14(a): Sets out the requirement for the northern boundary treatment to be agreed in writing and requires that existing hedgerows, trees and shrubs on site to be preserved.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

The Planner's Report is the basis for the Planning Authority's decision.

3.2.2. Other Technical Reports

Water Services: No objection.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection.

3.4. **Third Party Submission**

- 3.4.1. The Planning Authority received one submission during their determination of this application. No other submissions were received. The submission received was lodged by the appellant to this appeal case. I consider that the substantive concerns raised by the appellant in their submission to the Planning Authority are the same as those raised by them in their appeal submission to the Board (See: Section 6.1 below).

4.0 **Planning History**

4.1. **Site:** None.

4.2. **Immediate Vicinity:** None of relevance.

5.0 **Policy & Context**

5.1. **National Policy Provisions**

- **Sustainable Rural Housing Development Guidelines:** These guidelines require a distinction to be made between '*Urban Generated*' and '*Rural Generated*' housing need. Several rural area typologies are identified. Including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns.

The site is in an area that is identified as being under strong urban influence as per the Sustainable Rural Housing Guidelines. Under the provisions of these guidelines applicants that have connections with the rural area and where the demand for housing is rurally generated should be accommodated in such locations subject to other relevant criteria such as access, drainage and dwelling design and visual impact being satisfactory.

- **National Planning Framework – Project Ireland 2040:** 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. This will also be subject to siting and design considerations.

5.2. Local Planning Context

- 5.2.1. Meath County Development Plan, 2013 to 2019, is applicable Development Plan. The appeal site is located on un-zoned lands and in an area designated as being a 'Rural Area under Strong Urban Influence' in the Development Plan. The key challenge for such areas is indicated in the Development Plan as facilitating the housing requirements of the rural community while directing urban generated housing development to areas zoned for new housing in towns and villages in the area of the Development Plan.
- 5.2.2. The following Development Plan policies relate to this type of rural area: -
- **RD POL 1:** To ensure that individual house developments in rural areas satisfy the relevant housing requirements, subject to compliance with normal planning criteria.
 - **RD POL 2:** To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages.
 - **RD POL 3:** To protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development.
- 5.2.3. Section 10.4 of the Development Plan sets out the criteria under which applicants can demonstrate their local housing need. It states that the Planning Authority: *“recognises that exceptional health circumstances may require a person to live in a particular environment or close to family support. In such cases, the exceptional health circumstances would require supporting documentation from a registered medical practitioner and a disability organisation supporting a planning application. In the absence of any significant environmental, access or traffic reasons for refusal and the proposal adheres to sensitive design and siting criteria, the Planning Authority will consider granting planning permission, subject where appropriate to conditions regarding occupancy.”*
- 5.2.4. Section 10.5.1 of the Development Plan sets out the 'Development Assessment Criteria' which the Planning Authority will take into account for this type of developments. This includes housing need as defined in Section 10.4 of the said plan, local circumstances, suitability of the site, the degree to which the proposal represents

infill development and the history of development on the original landholding. Where there is history of speculative sale of sites, permission may be refused.

5.2.5. Section 10.5.2 of the Development Plan sets out the Planning Authority's criteria for determining whether a development proposal will exacerbate ribbon development, which it defines as "*high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage*". In assessing whether a given proposal will exacerbate such ribbon development it indicates that the Planning Authority will consider the following factors: the type of rural area; the circumstances of the applicant; the degree to which the proposal might be considered infill development; and the degree to which the proposal would cause existing ribbon development to be extended or coalesce.

5.2.6. Section 10.7 of the Development Plan sets out design and siting considerations for rural residential development.

5.2.7. Policy RD POL 9 of the Development Plan requires all applications for rural houses to comply with the 'Meath Rural House Design Guide'.

5.2.8. **Natural Heritage Designations**

- The site lies c10km to the north at its nearest point to the Special Protection Areas: River Boyne & River Blackwater SPA (Site Code: 004232).

5.3. **Environmental Impact Assessment**

5.3.1. Having regard to the nature and scale of the development for which planning permission is sought, the significant separation distance between the site and designated Natura 2000 sites 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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The grounds of appeal can be summarised as follows –

- The proposed dwelling house would result in overshadowing and a loss of sunlight; thus, negatively impacting on their residential amenities.
- The appellants social and patio area is located on the south facing side of their dwelling.
- The lateral separation distance of 9m from the proposed dwelling to the appellants property is objected too.
- The proposed development would devalue the appellants property.
- The local needs requirement can be easily accommodated by the relocation of the proposed dwelling within the overall landholding and this would reduce the impact of this development on their property.
- The stables are not in use and have fallen into a state of disrepair.
- The position of this disused building on site should not dictate the location of the proposed dwelling.
- The proposed 2-storey dwelling is not in keeping with the surrounding area and would dwarf the appellants property.
- The layout fails to have regard to the established building line in the area.
- The appellants concern in relation to the landscaping scheme as set out in their submission to the Planning Authority still remain.

6.2. **Planning Authority**

6.2.1. The Planning Authority response can be summarised as follows –

- The proposed development is consistent with local planning policy and provisions.
- The Board is requested to have regard to their Planning Officers Report.
- The Board is requested to uphold its decision.

6.3. **Applicant**

6.3.1. The Applicant's response can be summarised as follows –

- It is not accepted that the proposed development would result in significant overshadowing and/or loss of sunlight to the appellants property.

- No evidence has been submitted to substantiate that the appellants property would be devalued.
- The stables are to be retained and will come into full use once the proposed dwelling is completed. It is also not accepted that the stables are in a state of disrepair.
- The Planning Authority considered that the design of the dwelling house acceptable. It is requested that no change be made to its design as it is compliant with the Meath County Councils rural house design guidelines.
- It is requested that no change be made to the building line of the proposed dwelling.
- It is normal for screen planting to be proposed as a boundary treatment for residential developments.
- The Board is requested to uphold the decision of the Planning Authority.

7.0 Assessment

7.1. Introduction

- 7.1.1. Having regard to the nature of the proposed development; the Development Plan provisions; and, the issues raised on file by the parties to the appeal, I consider that the key matters for this appeal relate to the impact of the development on the residential amenities of the adjoining property to the north; the impact of the proposed development on the boundary treatment between these two properties and the concerns raised over the design and layout in terms of the visual amenities of the area.
- 7.1.2. Despite the sites location on land recognised at both a local through to a national planning provision context as being under strong urban influence and an area that has suffered significant erosion of its rural character by way of one off-detached dwellings and ribbon development, from an examination of the information on file, it would appear that the applicant satisfies the local need qualifying criteria and would have an intrinsic agricultural based link to the site which would be carried forward by the intensification of use of the existing stable building on the site.
- 7.1.3. It would also appear from an examination of the documentation on site and having inspected the site, including the area where the proprietary waste water treatment

system and percolation area are proposed to be located, that the site is suitable for such infrastructure, subject to standard good practice and safeguards.

7.1.4. The matter of Appropriate Assessment also requires examination.

7.2. **Design and Impact on Residential Amenity Amenities**

7.2.1. The basic design and scale of the proposed dwelling which puts forward a traditional and somewhat Georgian style vernacular is acceptable in principle. It is located c78m to the east of the roadside boundary and c19.8m to the east of the single storey stable block on site. It shares the same front building line as the appellants property to the immediate north of it and its mainly 2-storey built form is arranged in an L-shape with the staggered 2-storey and single storey in height northern elevation setback c3.1m at its nearest point from the northern boundary and altogether at its nearest point to the appellants property would have a lateral separation distance of c9m.

7.2.2. Having regard to the following factors:

- The built form of the proposed dwelling;
- The building to space relationship between it and the appellants property;
- The level of glazing on the southern elevation of the appellants property;
- The applicant's willingness to amend their northern elevation so that it only includes one small window serving a bathroom. I further note it is standard practice to require such windows to be fitted permanently with opaque glazing which reduces the potential for overlooking of properties alongside provides privacy for future occupants of the dwelling;
- The substantial plots in which the appellants property and the site which accompanies the proposed dwelling are set; and,
- The prevalence of this type of development to the north and south of it as well as on the opposite side of the Macetown Road.

I raise no significant issues that would warrant the refusal of the proposed development based upon serious injuries of residential amenities, in particular, by way of overshadowing, reduction in the levels of daylight; through to reduced levels of privacy.

7.2.3. Whilst I acknowledge that there will be some resultant loss of such amenities I consider that they could not be quantified as being significant nor do I accept having regard to the pattern of development in this area, an area in my view that is characterised by similar developments to the extent that the Macetown Road is more low density suburban in its intrinsic character as opposed to agriculture when viewed from the public domain, together with the lack of any substantive evidence from the appellant to demonstrate otherwise, that the proposed development, if permitted, would result in the devaluation of the appellants property.

7.2.4. Based on the above considerations I am of the view that the proposed development would not seriously injure the amenities of property in the area, including the appellants property.

7.3. **Boundary Treatments**

7.3.1. The appellant raises concerns in relation to the impacts associated with the provision of native hedgerows along the northern boundary as part of the overall associated development works. The applicant appears to seek to increase the level of screening along this boundary and where existing screening is poor and where it is lacking, i.e. from circa midpoint of the northern boundary to where the rear boundary commences. This stretch of boundary consists of low timber post and rail which allows for uninterrupted views of the applicant's property and unimpeded access to sunlight.

7.3.2. At this location the applicant also proposes the planting of beech trees at six locations and native to the area hedgerow species.

7.3.3. I consider it is standard practice to provide a screening to protect the privacy of existing residential amenities and the proposed private amenity spaces in such contexts.

7.3.4. I also consider subject to the appropriate maintenance of such natural boundary treatments that this is an appropriate boundary treatment in a rural area where boundary treatments are porous or are not effective in providing a level of robust privacy screening required. Indeed, the appellants property like other properties in the vicinity contain mature examples of this type of treatment between it and the adjoining property to the north of it.

7.3.5. Based on the above considerations I recommend the Board should it be minded to grant permission for the development sought under this application to include an

appropriate landscaping condition like Condition No. 14 in the Planning Authority's decision notification.

7.4. Visual Amenity Impact

- 7.4.1. I do not accept that the proposed development would give rise to a significant visual amenity impact that would warrant refusal of planning permission having regard to the pattern of similar development in the area and having regard to the fact that the design and layout of existing similar development is characterised by a wide variety of single storey through to 2-storey built forms of different architectural expressions through to different palettes of materials.
- 7.4.2. In addition, having regard to the front building lines whilst there are consistencies between groups of such developments there is also a variety of such building lines.
- 7.4.3. As the proposed development would be setback c78m from what is an already mature roadside boundary where it is proposed to maintain mature trees on either side of the proposed new entrance; the supplemented planting immediately behind the proposed new entrance which includes a mixture of mainly beech and oak trees; the presence of an existing stable building between the proposed dwelling and the road; I consider that the views of the proposed dwelling from the public domain would be limited.
- 7.4.4. Based on the above considerations I am not of the view that the proposed development would seriously injure the visual amenities of the surrounding area.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development in question, the nature of the receiving environment, and the significant distance between the lands in question to the nearest European site together with the lack of any hydrological link, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.6. Other Matters Arising

Surface Water Drainage: Should the Board be minded to grant permission I recommend the imposition of a similar condition to Condition No. 6 of the Planning

Authority's decision notification in the interest of ensuring that surface water drainage on site is provided and managed in accordance with best practice.

8.0 Recommendation

8.1. I recommend that permission is **granted**.

9.0 Reasons and Considerations

9.1. Having regard to the pattern of development in the area, the applicants demonstration of compliance with the rural settlement strategy, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety as well as convenience.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

2. The proposed development shall be amended as follows:

(a) The first-floor window on the northern elevation shall be omitted.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

3. (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. 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 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 in the interest of the proper planning and sustainable development of the area.

4. Water supply and surface water drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit proposals for the written agreement of the Planning Authority for the provision of sustainable drainage proposals to serve the driveway and other hard surface areas around the dwelling.

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

5. The following shall be complied with in the development:

(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Single Houses", Environmental

Protection Agency (current edition). No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling-house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Surface water soakways shall not be located in the location of the proposed driveways and revised site layout plans shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development on site.

(f) A BRE 365 result for the proposed soakway on site, details of the winter water level shall be provided in writing to the planning authority for their written agreement. Where infiltration systems are to be used they shall be a minimum depth of 1m above the winter water table level.

(g) 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 and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

(h) Details of the surface treatments for driveways and pathways shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

6. Prior to the commencement of construction of the house, details of the materials, colours and textures of all external finishes to the proposed house shall be submitted to the planning authority for written agreement.

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

7. (a) Prior to the commencement of development details of the northern boundary of the site shall be submitted for the written agreement of the planning authority and all other site boundaries shall consist of timber fencing back planted with native hedgerow and tree species.

(b) Existing hedgerows and trees shall be preserved except where required to be removed to accommodate the proposed entrance.

(c) Planting shall commence no later than the first planting season following commencement of development on site. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: To protect the visual amenity and natural heritage of the area.

8. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

9. 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.

10. 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 commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working; noise and dust management measures; measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; location of the site and materials compound(s) including areas identified for the storage of construction refuse; off-site disposal of construction/demolition waste; details of how it is proposed to manage excavated soil; and, means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

Reason: In the interests of public safety and residential amenity.

11. Sight distance triangles shall be maintained and kept free from vegetation and other obstructions that would reduce the minimum visibility required.

Reason: In the interest of road safety and public safety.

12. The Applicant/Developer shall be responsible for the full cost of repair in respect of any damage caused to any adjoining public roadway arising from the construction work and shall make good any such damage forthwith to the satisfaction of the planning authority.

Reason: In the interests of proper traffic management of the area.

13. 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 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 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 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.

Patricia-Marie Young

Planning Inspector

31st July 2019.