



An
Bord
Pleanála

Inspector's Report - Addendum
ABP 305132 -19

Development	Construction of house, detached garage, new wastewater treatment system.
Location	Skreen, Tara, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	AA190411
Applicant	Malachy Lavery
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions.
Type of Appeal	Third Party
Appellants	John and Natalie Sheridan
Observer(s)	None
Date of Site Inspections	27 th February 2020
Inspector	Brendan Coyne.

1.0 Background

- 1.1.1. This report is an addendum to an original report dated the 27th November 2019, in respect of an appeal against a Notification of Decision to Grant Permission issued by Meath County Council for the construction of a house, detached garage and new wastewater treatment system.
- 1.1.2. The original report recommended that permission be refused for the proposed development for 2 no. reasons for refusal, which can be summarised as follows;
1. Having regard to observed waterlogged ground conditions and the high-water table, the Board is not satisfied that the effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.
 2. The proposed development would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities.
- 1.1.3. The submissions on this file and the Inspector's report were considered by the Board on the 05th December 2019. The Board decided to defer consideration of this case and to issue a notice under Section 137 of the Planning and Development Act 2000 (as amended) to all the parties, indicating the following;

The Board, in determining this appeal may take into account the following issues;

1. The site of the proposed development is located within an "Area Under Strong Urban Influence" as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area,

having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal, the Board may not be satisfied that the applicant has a demonstrable economic or social need to live at this site within in this rural area. It is considered, therefore, that the applicant may not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location and that the proposed development might, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and would be contrary to the proper planning and sustainable development of the area. Having regard to the above, the Board may be minded to refuse permission.

2. It is the policy of the planning authority as set out at section 10.5.2 of the Meath County Development Plan 2013-2019, to control urban sprawl and ribbon development. This policy is considered to be reasonable. In addition, Appendix 4 of the Ministerial Guidelines, 'Sustainable Rural Housing, Guidelines for Planning Authorities', published in 2005 by the Department of Environment, Heritage and Local Government, recommend against the creation of ribbon development. It is considered that the proposed development may be in conflict with the development plan policy and with the Ministerial Guidelines because, when taken in conjunction with existing development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. Having regard to the above, the Board may be minded to refuse permission.
3. Having regard to waterlogged ground conditions on site as observed by the Planning Inspector, and the details contained in the application documentation regarding the water table, the Board is not satisfied on the basis of the information submitted with the planning application that the effluent from the development can be satisfactorily treated and disposed of on site,

notwithstanding the proposed use of a proprietary wastewater treatment system and that in conjunction with a proliferation of treatment systems in the vicinity, the proposed development would, therefore, be prejudicial to public health. Having regard to the above, the Board may be minded to refuse permission.

- 1.1.4. Notices under Section 137 were issued to the parties on the 10th January 2020. Submissions and observations were invited to be received on or before the 8th January 2020.

2.0 Responses to Section 137 Notice

2.1. First Party Response

- 2.1.1. Val Casserly of Jova Planning Consultants, responded on behalf of the applicant Malachy Lavery to the Section 137 Notice, detailing the following;

- The applicant complies with the Sustainable Rural Housing Guidelines and Section 10.4 of the Development Plan, by reason of being an intrinsic part of the rural community.
- The applicant has owned the site since 2003 and has been a resident of the area since 2010.
- The applicant is involved in the equine business whereby he takes in and trains horses / ponies including those from the Irish Horse Welfare Trust, a charity which takes in abandoned and ill-treated horses.
- The applicant has a social and economic need to live in the area.
- The applicant is a self-employed building contractor and works locally.
- The proposed dwelling complies with Development Plan policy regarding ribbon development.
- The site is not located within a flood risk area of the OPW PFRA mapping / strategic flood risk assessment for County Meath.
- The proposed on-site treatment system complies with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (2009).

2.1.2. The applicant submitted a statement setting out his economic and social need to live in the locality, principally that;

- The applicant has been a part of the local community for the last 16 years and has an urgent need for a home.
- The only way the applicant can afford a house is to build it himself, on the subject site which he owns.
- The applicant's son, who lives in the locality, has medical circumstances which requires the applicant to live near him, to ensure his continued health.

2.1.3. Supporting documentation submitted includes;

- A cover letter and copy of the original Site Characterisation Report, prepared by Paul Martin, an EPA approved and indemnified assessor. A copy of the site assessor professional indemnity insurance has also been submitted.
- Email correspondence from the Irish Horse Welfare Trust.

2.2. Third Party Response

2.2.1. The third-party appellants John and Nathalie Sheridan responded to the Section 137 Notice, detailing (inter alia) the following;

- The applicant does not have a local economic need for a house in accordance with Development Plan rural housing need.
- The applicant is not an intrinsic part of the rural community and does not have family connections to the area.
- The proposed development would comprise ribbon development and would be detrimental to the preservation of the rural landscape.
- The site is not suitable due to flooding in the area. Details provided of occasions of near flooding along the roadside ditch.

2.3. Planning Authority Response

2.4. Meath County Council responded to the Section 137 Notice, stating the following;

- The applicant has demonstrated a local need for a house at this location as required under Section 10.4 of the Meath County Development Plan.
- The site of the proposed development constitutes an infill site between two existing dwellings and would not extend ribbon development at this location.
- The Site Characterisation Form submitted indicates favourable ground conditions, that T- Values and P-values achieved on site are in compliance with the EPA Code of Practice for Waste Water Treatment Systems (2009) and that there was no evidence of water logged ground conditions on site during the Planning Officer's site inspection.
- The proposed development is considered consistent with the policies and objectives of the Meath County Development Plan 2013-2019.
- The Planning Authority requests An Bord Pleanála to uphold the decision to grant permission.

3.0 **Assessment**

Having regard to the above submissions provided on foot of the Section 137 Notice issued to all parties, the main issues for consideration are as follows;

- Housing Need
- Ribbon Development
- Wastewater Treatment

These are addressed below.

3.1. **Housing Need**

- 3.1.1. The site is located c. 5km south-east of Navan town in County Meath. As detailed on Map 10.1 of the Development Plan, the site is situated within a 'rural area under strong urban influence'. Relevant rural housing policies in the Meath County Development Plan 2013-2019 include the following;

- Policy RD POL 1 seeks ‘to ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed’.
- RD POL 2 seeks ‘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 in the area of the development plan’.
- RD POL 3 seeks ‘to protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development and to maintain the identity of these urban centres
- Section 10.4 of the Development Plan refers to ‘persons who are an intrinsic part of the rural community’ and sets out specific criteria whereby the Planning Authority will support proposals for individual dwellings on suitable sites in rural areas.

3.1.2. Relevant national planning policy and guidelines include the following

- Policy Objective 19 of the National Planning Framework requires that in ‘rural areas under urban influence’, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area, having regard to the viability of smaller towns and rural settlements.
- The ‘Sustainable Rural Housing Guidelines for Planning Authorities’ (2005) recommend that urban-generated housing in rural areas under strong urban influence should be directed to areas zoned for new housing development in cities, towns and villages in the area of the Development Plan.

3.1.3. Documentation submitted with the application, putting forward the applicant’s need for a rural house at this location, include the following;

- The Meath County Council Local Needs Questionnaire Form, stating that;
 - The applicant Malachy Lavery currently resides in Obsertown, Tara, County Meath and has been living there since Jan. 2010.
 - The applicant is self-employed as a Building Contractor and his places of employment are in the Navan, Dunboyne and Rathoath areas.
 - The applicant’s daughter runs a riding school at the applicant’s landholding.
- The following documentation confirming the that the applicant resides in Obsertown, Tara, County Meath:

- Bank statements – various, dated from March 2010 to Feb. 2019.
- Letters from the Office of Revenue Commissioners - dated Dec. 2010 and Aug. 2014.
- Motor Tax Renewal Form - dated February 2012.
- Electricity bills – various dated from July 2011 to Jan 2019.
- Letter from the Dept. of Social Welfare - dated September 2012.
- Letter from the H.S.E. - dated Oct. 2013.
- Insurance invoice / receipts – various dated from Feb 2013 to Dec. 2018.
- eFlow invoice - dated Aug. 2014
- Letter from Keith Nolan confirming that the applicant has been a tenant of his since January 2010.
- Map showing the location of the applicant's address which is located 1.2km south of the application site.
- Copies of rent receipts over the period 2014 – 2019.
- Legal documentation, dated 2015.

3.1.4. The first and third parties and Planning Authority's response to the Section 137 Notice and the issue of housing need are detailed in Section 2.0 above.

3.1.5. Having reviewed the documentation submitted, I do not consider the applicant has an economic need for a house in this rural location by reason of his stated occupation as a building contractor and places of employment in the Navan, Dunboyne and Rathoath areas. Such employment is not related to the immediate rural area. Furthermore, the applicant proposes to cease the operation of the riding school and remove all associated structures on site, in the event of a grant of permission. The applicant's employment would not, therefore, be in the equine industry as stated. I am not satisfied, therefore, that the proposed development would not constitute an urban generated rural house.

3.1.6. The applicant has not submitted documentary evidence substantiating his social need for a house in this location, by reason of his son's medical circumstances and his requirement to live near him. Having regard to the proximity of the site to Navan and other nearby towns and villages, the applicant has not demonstrated how his housing need could not be satisfactorily met in these urban settlements. I am not satisfied, therefore, that the applicant's need for a house at this location complies with National Policy Objective 19 of the National Planning Framework which seeks to facilitate the

provision of single housing in the countryside, in rural areas under urban influence, based on the core consideration of demonstrable economic or social need to live in a rural area and the viability of smaller towns and rural settlements. Such development would be contrary to RD POL2 of the Development Plan which seeks to direct urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan. For this reason, I recommend that the proposed development be refused permission.

3.2. Ribbon Development

- 3.2.1. The Planning Authority Report did not address the issue of ribbon development in its assessment of the proposal. In response to the Section 137 Notice, Meath County Council state that the site of the proposed development constitutes an infill site between two existing dwellings and would not extend ribbon development at this location.
- 3.2.2. There are 3 no. dwellings located on adjoining sites, to the north of the subject site and 1 no. dwelling on the adjoining site to the south. The proposed development would result in a 5th house in a row along a stretch of 125 metres of rural road. It is my view that the proposed development, taken in conjunction with existing development in the vicinity of the site, would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. Such development would be contrary to Section 10.5.2 of the County Development Plan and the Sustainable Rural Planning Guidelines 2005 which recommends against the creation of ribbon development. For this reason, I recommend that, as per my previous recommendation, the proposed development be refused permission.

3.3. Wastewater Treatment

- 3.3.1. The proposed development provides for the provision of a new proprietary sewage treatment system and a 180sq.m. polishing filter system. The proprietary sewage treatment system would be located 22m to the rear / east of the proposed dwelling

and the proposed polishing filter system would be located on the triangular eastern section of the site.

3.3.2. In response to the Section 137 Notice, Meath County Council state that the Site Characterisation Form submitted indicates favourable ground conditions, that T-values and P-values achieved on site are in compliance with the EPA Code of Practice for Waste Water Treatment Systems (2009) and that there was no evidence of water logged ground conditions on site during the Planning Officer's site inspection.

3.3.3. In response to the Section 137 Notice, the applicant submitted a Site Characterisation Report (SCR) and cover letter, prepared by Paul Martin, an EPA approved and indemnified assessor. The Site Characterisation Report submitted is the same as that originally submitted with the application. The cover letter details the following;

- Site characterisation showed that 0.9m of free draining unsaturated soil/subsoil was present in the trial hole, which will perform as a soil polishing filter, to the criteria of the EPA Code of Practice 2009.
- With regards possible water logging, the percolation area is to be located at the highest point on the site and the ground levels of the percolation area will be raised by a further 0.92m, therefore ponding / run-off from recharge waters at the percolation area will not occur.
- In relation to the water table, the site characterisation report indicated water ingress into the trial hole at 1.8m below ground level. Anaerobic soil conditions at 0.9m below ground level were observed and this worst-case scenario was used in the design and datum level proposed for the polishing filter.
- The soil permeability test indicated free draining soils as reflected by the subsoil 'T value' of 36.31 and topsoil 'P value' of 45.89, an acceptable range as per the EPA Code of Practice 2009.
- With regard to the proliferation of existing septic tanks in the vicinity, the proposed sewage treatment system and soil polishing filter will be installed under supervision and signed off by a suitably qualified and competent person, in accordance with the EPA Code of Practice 2009 and therefore is designed not to be prejudicial to public health.

3.3.4. In consideration of the above, I carried out a site inspection on the 28th February 2020 whereby I found again that the ground conditions of the proposed polishing filter were waterlogged, with water ponding apparent. Having regard to the poor percolation characteristics of the ground and the high-water table, as indicated by the trial and test holes excavated on the site and b) the waterlogged ground conditions of the proposed soil polishing filter, I am not satisfied that the site is suitable for the receipt and treatment of wastewater from the proposed proprietary sewage system and soil polishing filter. Such development would be contrary to the requirements of the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (2009). As such, it is my view that the site is unsuitable for the installation of a proprietary sewage system and soil polishing filter at this location. The proposed development would, therefore, be prejudicial to public health. For this reason, I recommend that, as per my previous recommendation, the proposed development be refused permission.

4.0 Recommendation

4.1. Having regard to the above assessment, I recommend that planning permission be refused, for the reasons and considerations set out below.

5.0 Reasons for Refusal

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to

live at this site within in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location and that the proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and would be contrary to the proper planning and sustainable development of the area.

2. It is the policy of the planning authority as set out at section 10.5.2 of the Meath County Development Plan 2013-2019, to control urban sprawl and ribbon development. This policy is considered to be reasonable. In addition, Appendix 4 of the Ministerial Guidelines, 'Sustainable Rural Housing, Guidelines for Planning Authorities', published in 2005 by the Department of Environment, Heritage and Local Government, recommend against the creation of ribbon development. It is considered that the proposed development would be in conflict with the development plan policy and with the Ministerial Guidelines because, when taken in conjunction with existing development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to waterlogged ground conditions on site as observed by the Planning Inspector, and the details contained in the application documentation regarding the water table, the Board is not satisfied on the basis of the information submitted with the planning application that the effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system and that in conjunction with a proliferation of treatment systems in the vicinity, the proposed development would, therefore, be prejudicial to public health.

Brendan Coyne
Planning Inspector

02nd March 2020