



An
Bord
Pleanála

Inspector's Report ABP 305504-19

Development	Construction of house, garage, on-site well, installation of proprietary waste water treatment system/percolation area.
Location	Almondstown, Clogherhead, Co Louth
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	19542
Applicant(s)	Brian Gargan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Brian Gargan
Observer(s)	None
Date of Site Inspection	27 th January 2020
Inspector	Brendan Coyne.

1.0 Site Location and Description

1.1. This site (0.38 ha) is located on the northern side of the Almondstown road (L6280), approx. 2.5km to the south-west of Clogherhead village, in the rural townland known as Almondstown. The main section of the site comprises part of a large open field which is setback two fields (c. 100 metres) from the public road. The northern, western and southern boundaries of the main section of the site are defined with dense hedgerow. The roadside boundary of the site has a road frontage width of 13m and is defined with dense hedgerow. A single storey dwelling, stated as being the family home, is located on lands to the west of the site entrance and a two-storey dwelling and agricultural building are located on adjoining lands to the east. The ground level of the site slopes downwards gradually in a north-easterly direction. The surrounding area is characterised by agricultural land and dispersed rural one-off housing. The Almondstown road is a second-class local road and is subject to an 80 kph speed limit.

2.0 Proposed Development

2.1.1. Permission sought for the construction of the following;

- A detached 1.5 storey 3-bedroom dwelling (186.7 sq.m.),
- Detached domestic garage (55.2 sq.m.),
- On-site well,
- Installation of a proprietary wastewater treatment system and percolation area,
- New vehicular access and driveway from the public road,
- Associated site works.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council refused permission for the proposed development. The 2 no. reasons for refusal were as follows;

1. It is the policy (SS 25) Louth County Council Development Plan 2015 - 2021, that proposed dwellings in the rural area shall take account of siting, presence

in the landscape and the pattern of development of existing dwellings in the area. It is considered that the proposed development by reason of its location to the rear of established development, constitutes a piecemeal form of backland development which does not reflect the spatial pattern of the vast majority of development in the area, which currently fronts and orientates towards the public road and would result in an intrusive encroachment of physical development into lands currently free of development. Accordingly, to permit the proposed development would materially contravene the aforementioned policy provisions of the Louth County Development Plan 2015-2021 and would thereby be contrary to the proper planning and sustainable development of the area.

2. The proposed development seeks to create a new vehicle entrance onto public road no. 280. It is the policy of the Louth County Development Plan 2015-2021 that visibility sightlines of 75m x 0.6m – 1.05m x 3m are required in both directions at the proposed entrance. The applicant has failed to demonstrate to the satisfaction of the Planning Authority that the required sightlines can be achieved at the proposed entrance and as such the proposed development contravenes materially the roads policy of the Louth County Development Plan 2015 – 2021 and would endanger public safety by reason of the traffic hazard.

3.1.1. **Planning Reports**

3.1.2. Basis for the Planning Authority's decision. Includes:

- The applicant has submitted documentary evidence demonstrating that he is a long-standing resident of the area, with a rural housing need and complies with local need qualifying criteria.
- The location of the proposed development two fields back from the public road behind the family home is unacceptable as it constitutes backland development.
- The site is taken from the family holding. The applicant has an alternative site available to him closer to the public road, as highlighted on pre-planning notes.
- The applicant makes reference to a dwelling granted permission on lands to the west, which is setback from the public road. This dwelling is not located directly

behind another dwelling and was granted permission under a previous Development Plan (2009-2015).

3.1.3. **Other Technical Reports**

Infrastructure Section: The applicant was requested to provide further information addressing the following;

- Blocked sightlines to the west of the site entrance and legal consent to carry out works to enable adequate sightlines.
- Alternatively, submit a traffic speed survey to seek a relaxation of minimum sight distances, if traffic speeds allow.

Environment Section: No objection subject to Conditions.

4.0 **Planning History**

4.1.1. ***Application Site***

None

4.1.2. ***Adjacent Sites to the West***

P.A. Ref. 1490 Permission granted in 2014 for the construction of a single storey dwelling house.

4.1.3. ***Adjacent Sites to the South***

P.A. Ref. 95/662 Permission granted in 1996 for the construction of a new dwelling (applicant's family home).

P.A. Ref. 92738 Permission granted in 1995 for the construction of two dwelling houses, on the southern side of the Almondstown Road.

5.0 **Policy and Context**

5.1. **Development Plan**

5.1.1. **Louth County Development Plan 2015-2021**

Zoning The site is located on lands zoned 'Development Control Zone 4' which seeks 'To provide for a greenbelt area around the urban centres of Dundalk, Drogheda, and Ardee'.

Section 2.7 refers to 'Rural Settlements / Countryside' and states that '**all of County Louth falls within 'rural areas under strong urban influence'** as defined by the National Spatial Strategy (NSS) 2002 by reason of its proximity to Dublin and its strong urban structure and for this reason, to facilitate the careful management of rural one-off housing in County Louth, Local Needs Qualifying Criteria have been outlined in detail in Section 2.19.1 of this Plan'.

Policy SS18 seeks '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 as set out in Section 2.19.1 below'.

Policy RD 37 refers to Development Zone 4 and seeks 'To permit limited one-off housing', subject to Section 2.19.1 Qualifying Criteria.

Section 2.19.1 refers to '**Local Needs Qualifying Criteria**' and states that 'Applicants for one-off rural housing are required to demonstrate compliance with criteria relevant to the specific Development Zone in which the dwelling is to be located'.

For applications in Development Zone 4, relevant Local Needs Qualifying Criteria are as follows;

1. Applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the county for a minimum of 5 years prior to making an application,

Or

2. That the applicant(s) have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the county for a minimum of 5 years prior to making an application

Or

3. That the applicant is actively and significantly involved in agriculture and that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. Where the applicant is employed in a part time basis, the predominant occupation shall be agriculture. In all cases, supporting documentation outlining that the nature of the activity is sufficient to support full-time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that agricultural enterprise.

Policy SS 25 seeks 'To require that applications for one-off houses demonstrate compliance with the Development Management Assessment Criteria for One-Off Rural Housing as detailed in Section 2.19.7'.

Section 2.19.7 sets out **Development Management Assessment Criteria for One-Off Rural Housing** stating that the Council will have regard to the following relevant considerations in assessing all applications for one-off rural houses:

- The cumulative visual impact and pattern of development of existing houses and permissions granted in the vicinity of the site,
- The cumulative visual impact, pattern of development and number of houses developed and granted permission on the landholding,
- Breaking the skyline and visual impact,
- Use of materials which are traditional and indigenous to the area as far as practical,
- Impact on farming practice and rural based activities,
- Traffic safety,
- Impact on natural resources and landscapes,
- Siting of house, how house fits into the landscape and avails of existing natural shelter,
- Site suitability in terms of drainage and compliance with EPA guidelines,
- Suitable landscaping proposals,

Policy SS 26 seeks 'To require that the design and siting of the proposed dwelling is

such that it does not detract from the rural character of the landscape or the visual amenities of the area. In this regard, applicants will be required to demonstrate that the proposal is consistent with the document Building Sensitively and Sustainably in County Louth and the guidelines contained in Section 2.20'

Section 2.20 sets out criteria for **Rural Housing Design and Siting Criteria**

Policy SS 26 seeks 'To require that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic by demonstrating compliance with the appropriate visibility and traffic safety standards as set down in Section 7.3.6 of the Plan'.

Table 7.4 sets out **Minimum Visibility Standards** and requires that Local Class Roads provide a sight distance (y) of 75m, a distance back from the edge of the carriageway (x) of 3m and visibility requirement over ground of 0.6-1.05m.

5.2. National Planning Policy and Guidelines

5.2.1. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Appendix 3 sets out that in areas under strong urban influence, urban generated development should be directed to areas zoned for new housing development in cities, towns and villages in the area of the Development Plan.

5.2.2. National Planning Framework – Project Ireland 2040

NPO19 seeks to 'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, 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 and siting and design criteria for rural housing in

statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

5.3. **Natural Heritage Designations:**

- 5.3.1. The appeal site is located 2.1km to the west of the Clogher Head SAC (Site Code 001459).

5.4. **EIA**

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. A first-party appeal was received from the applicant Brian Gargan, against the decision made by the Planning Authority to refuse permission for the proposed development. The main grounds of appeal are summarised under the headings below;

6.2. ***Site Selection - Planning Authority’s Reason for Refusal No. 1***

- The subject site is secluded. Rather than create further ribbon development along the roadway, the site is set back, hidden away and barely visible from the public road.
- The site is nestled into the natural lie of the land.
- The site is c. 5m below the adjacent site to the west, providing shelter from prevailing south-westerly winds.
- The site would not break the skyline.

- The site is located in a cluster of developments in Almondstown, all centred around the tradition of farming. All properties in the cluster make best use of the hillside location and contours of the land.
- The site is located 15 metres from the boundary of the applicant's parents garden.
- The site of the proposed dwelling is in line with a house recently built approx. 150m to the west of the site. This dwelling was built one field back from the public road.
- The proposed development would cause minimal loss of use of land for farming.
- The Planning Authority suggested an alternative site at a pre-planning meeting. This field is not suitable by reason of its importance to the operation of the farm vis-à-vis its access to all other fields in the land holding, sheds located on this field and its use for the holding of livestock and hay in summer and winter months. The landowner (applicant's father) would be unwilling to transfer ownership of a site in this field.
- If permission were refused for the proposed dwelling at this location, the applicant would have no other option than to move to an urban area.
- The applicant has lived all his life in Almondstown on the family owned farm and wishes to continue the tradition of looking after the land held by his father and grandfather before.

6.3. ***Sightlines - Planning Authority's Reason for Refusal No. 2***

- Sightlines of 75m, measured at a height of 1.05m above ground and 3m back from the carriageway can be achieved at the entrance to the site.
- A legal agreement between the applicant and his father was submitted with the application. This permits the removal of the hedge adjacent to the proposed site entrance to make certain sightlines can be achieved.
- Planning Conditions imposed for the nearest dwelling to the west under P.A. Ref. 95/662 specifically refers to maintaining visibility splays and removing evergreen trees which have been planted along the road.

6.4. Supporting documentation lodged with the appeal include the following;

- Site Layout Plan showing sightlines at the entrance to the site.
- Land Registry Memorandum of Agreement between the applicant and his father, consenting for the complete removal of the hedge / bank along the roadside, to enable sightlines be achieved.
- Documentation regarding P.A. Ref. 92738 on adjacent site on the southern side of the Almondstown Road and sightlines required at the entrance to the site.

6.5. **Planning Authority Response**

- 6.5.1. The Planning Authority is satisfied that all matters raised in the Grounds of Appeal were considered in the assessment of the planning application, as detailed in the Planning Officer's report.

6.6. **Observations**

None received

7.0 **Assessment**

The main issues for consideration are those raised in the Grounds of Appeal. In addition, having reviewed the documentation submitted and having regard to relevant policy in the Louth County Development Plan and relevant national planning policy and guidelines, I consider that the issues, therefore, are as follows;

- Site Location
- Vehicular Entrance Sightlines
- Rural Housing Need

These are addressed below.

7.1. **Site Location - Planning Authority's Reason for Refusal No. 1**

- 7.1.1. The Planning Authority refused permission for the proposed development on the grounds that its location to the rear of established development, constitutes a piecemeal form of back-land development which does not reflect the spatial pattern of the vast majority of development in the area, which currently fronts and orientates

towards the public road and would result in an intrusive encroachment of physical development into lands currently free of development. The Planning Authority consider that the proposed development would materially contravene policy SS 25 of the Louth County Development Plan.

- 7.1.2. The site of the proposed dwelling is located c.100 metres from the edge of the public road and would be accessed via a proposed new vehicular entrance and driveway which would traverse through 2 no. fields before arriving at the field of the proposed dwelling. The proposed dwelling is located to the rear / north of an existing single storey dwelling, stated as being the family home. The site is relatively exposed and visible from the Almondstown Road and surrounding rural area. The proposal comprises a 1.5 storey dwelling with a roof ridge height of 7.7m. The proposal has a front elevation width of 15.8m and a side elevation width of 12m. The front elevation of the proposal is orientated in an easterly direction, thereby its southern side elevation would present towards the public road. The proposal provides a detached single storey garage located to the northern side of the proposed dwelling. This garage has a depth of 10m, width of 6.7m and a ridge height of 5.6m.
- 7.1.3. The spatial pattern of development in the immediate surrounding area comprises dwellings which, for the most part, front directly onto the Almondstown Road. The applicant makes reference to a dwelling located on nearby lands to the west which is set back one field from the road. This dwelling was granted permission in 2014 under P.A. Ref. 1490. This dwelling was permitted under a previous Development Plan and its location is at variance with the established pattern of development in the surrounding area. As such, it is considered that this dwelling should not be considered acceptable precedent for the proposed development.
- 7.1.4. Given the location of the proposed dwelling and its distance from the public road, it is my view that the proposal would result in an undesirable form of backland development which would be out of character with the established pattern of development in the surrounding area and would result in an intrusive encroachment of physical development into the open rural landscape. It is considered that such development would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. Furthermore, having regard to the topography of the site, I consider that the scale, form and design of the proposed dwelling would be unduly dominant in the landscape

and would detract from the visual and rural amenity of the surrounding rural area. Such development would be contrary to the requirements of Policy SS26 of the Louth Development Plan which requires that the design and siting of a proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area.

In consideration of the above, I recommend that the appeal should not be upheld in relation to the Planning Authority's first reason for refusal.

7.2. Vehicular Entrance Sightlines – Planning Authority's Reason for Refusal No. 2

- 7.2.1. The Planning Authority refused permission for the proposed development on the grounds that the applicant failed to adequately demonstrate that sightlines of 75m x 3m can be achieved in each direction at the proposed new site entrance. The Planning Authority consider that such development would materially contravene the roads policy of the Louth County Development Plan and would endanger public safety by reason of a traffic hazard. The applicant contests this in the grounds of appeal, stating that sightlines of 75m, measured at a height of 1.05m above ground and 3m back from the carriageway can be achieved at the entrance to the site.
- 7.2.2. Table 7.4 of the Louth County Development Plan requires a minimum 'Y' sight distance of 75m and an 'x' setback of 3m from the edge of the road for new entrances on local class roads. The Almondstown road (L6280) is a local class road. Drawings submitted show that sightlines of 75m x 3m can be provided in both directions at the proposed new entrance.
- 7.2.3. The Infrastructure report of Louth County Council states that the 75m sightline in a westerly direction appears to be blocked by the roadside verge. The report sought further information stating that if the provision of adequate sightlines requires works to third party lands, the applicant is requested to submit a formal legal agreement together with a map detailing the extent of lands affected and works required to provide adequate sightlines.
- 7.2.4. As detailed in Section 6.1 above, the applicant has submitted a Land Registry Memorandum of Agreement between the applicant and his father consenting for the complete removal of the roadside hedge / bank to the west of the propose vehicular

entrance. It is considered that such legal agreement would enable the provision of satisfactory sightlines to the minimum standard required by the Planning Authority.

7.2.5. In consideration of the above, I recommend that the appeal should succeed in relation to the Planning Authority's second reason for refusal.

7.3. Rural Housing Need

7.3.1. While not given as a reason for refusal, I consider it appropriate to assess whether or not the proposed development complies with the Louth County Development Plan and national planning policy and guidelines regarding rural housing need.

7.3.2. The site is located c.2.5km to the south-west of Clogherhead village and 9km to the north-east of Drogheda on rural lands zoned 'Development Control Zone 4' which seeks to 'to provide for a greenbelt area around the urban centres of Dundalk, Drogheda, and Ardee'. As set out in Sections 2.7 and 2.18.3 of the Louth County Development Plan, the site is located in a 'rural area under strong urban influence' by reason of its proximity to Dublin and the strong urban structure in the County. Relevant rural housing policies relating to such areas are set out in Section 5.0 above.

7.3.3. Documentation submitted with the application, putting forward the applicant's case for local / rural housing need, detail the following;

- The Louth County Council Local Needs Questionnaire Form details that the applicant Brian Gargan currently resides in Almondstown, Clogherhead.
- Letter from Callystown National School confirming that Brian Gargan of Almondstown attended the school from 1991-1999.
- Letter from the Parish of Clogherhead and Walshestown confirming that the applicant made his First Holy Communion and went to school in the parish and that his family continue to reside in the parish.
- Bank statement of the applicant, dated June 2019, confirming the applicant's address at Almondstown.
- Birth Certificate, dated 1987, stating the applicant's parents address at Almondstown.
- Declaration from the applicant stating that he does not own a house or owned a house within the rural area within the last five years.

- Record Place Map showing the application site and applicant's family home immediately to its south.
- Letter of Consent from the applicant's father Gerard Gargan for the applicant to apply for planning permission for the proposed development.

7.3.4. The Planning Report of Louth County Council, based on the information submitted, considers that the applicant is a long-standing resident of the area and has a rural housing need in compliance with the Development Plan local needs qualifying criteria, as set out in Section 2.19.1 of the Development Plan.

7.3.5. The applicant states in the Grounds of Appeal letter that he has lived all his life in Almondstown on the family owned farm and wishes to continue the tradition of looking after the land held by his father and grandfather before. No documentary evidence has been submitted substantiating that the applicant works on the family farm and / or details of farming activity on the family landholding. Furthermore, the applicant has not demonstrated a social need to live in this rural area. In the absence of this information, I have no evidence to substantiate that the applicant has an economic or social need to live in this rural area and that the proposed development does not constitute an urban generated residential development. Having regard to the proximity of the site to 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 nearby urban areas towns and villages. Such development would be contrary to Policy SS 18 of the Development Plan which seeks to restrict urban generated rural housing, in order to protect the visual amenities and resources of the countryside. For this reason, I recommend that the proposed development be refused permission.

7.4. Screening for Appropriate Assessment

7.4.1. The closest Natura 2000 site to the appeal site is the Clogher Head SAC (Site Code 001459) which is located 2.1km to the east of the site. Taking into consideration the

nature and scope of the proposed development, the wastewater treatment system proposed to serve the dwelling, the details provided on the site characterisation form and the existing residential and agricultural development in the immediate vicinity, I am of the 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.

8.0 Recommendation

8.1. I recommend that planning permission should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed development, by reason of its location and distance from the public road would constitute inappropriate backland development which would be out of character with the established pattern of development in the surrounding rural area and would result in an intrusive encroachment of physical development into the open rural landscape. Such development would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. Furthermore, having regard to the topography of the site, it is considered that the scale, form and design of the proposed dwelling would be unduly dominant in the landscape and would detract from the character and visual amenity of the surrounding rural area. Such development would be contrary to the policy requirements of the Louth Development Plan which requires that the design and siting of a proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located in a 'rural area under strong urban influence', as set out in the Louth County Development Plan 2015 – 2021. Such areas are defined in the 'Sustainable Rural Housing Guidelines for Planning

Authorities' (2005) wherein it is recommended 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. Policy SS 18 of the Louth County Development Plan seeks 'to restrict urban generated housing in order to protect the visual amenities and resources of the countryside'. 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.

Having regard to the documentation submitted with the planning application and appeal, it is considered that the applicant has not adequately demonstrated an economic or social need to live in this rural area, having regard to the proximity of the site to nearby towns and villages and the viability of these urban areas. Furthermore, the applicant has not demonstrated that the proposed development does not constitute an urban generated residential development. The proposed development would, therefore, be contrary to National Policy Objective 19 of the National Planning Framework and the rural housing policy requirements of the Louth County Development Plan. Such development would be contrary to the proper planning and sustainable development of the area.

Note: The Reason cited refers to a new issue in the appeal and requires re-circulation prior to decision.

Brendan Coyne
Planning Inspector

28th February 2020