



An
Bord
Pleanála

Inspector's Report ABP-305583-19.

Development	Construction of detached house, on-site wastewater treatment system and percolation area together with all associated site works.
Location	Fleenstown Great, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	AA190962.
Applicant(s)	Edmund & ElizabethTormey.
Type of Application	Planning Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party
Appellant(s)	Edmund & ElizabethTormey.
Observer(s)	None.
Date of Site Inspection	24 th day of January, 2020.
Inspector	P.M. Young.

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1.0 Site Location and Description

1.1. The irregular rectangular shaped site has a stated 0.349ha area and it fronts onto a cul-de-sac lane in the Townland of 'Fleenstown Great', c1.2km to the south west of the M2's Junction 3; and, c3.6km to the south west of the centre of Ashbourne, both as the bird would fly, in County Meath. It consists of a green plot of land whose boundaries are characterised by mature native trees and hedgerows. The site is bound on its western side by a large agricultural field whereas to the north and south the site is bound by detached dwellings on large garden plots. The southern boundary of the site adjoins a restricted in width laneway at a point where it terminates alongside the south-westernmost corner of the site. There is a large agricultural field on the opposite side of this lane. The country lanes to the north east and east of the site are characterised by a strong pattern of linear *ad hoc* residential development. These are predominantly detached single storey, dormer through to two storey dwellings of varying architectural styles and dates.

2.0 Proposed Development

2.1. Planning permission is sought for a development consisting of the construction of a contemporary in style single storey detached dwelling house with part flat roof and part pitch roof over. The proposed dwelling has a stated 189.27m² area, served by a revised site entrance, an on-site wastewater treatment system and percolation area. Planning permission is also sought for all associated site works which includes but is not limited to landscaping and new boundary treatments addressing the adjoining lane.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority refused planning permission for the following stated reasons:

- “1. *The site of the proposed development is within 'an Area under Strong Urban Influence' as identified in the Sustainable Rural Housing Guidelines for Planning Authorities (Department of the Environment, Heritage and Local*

Government, 2005) and in a 'Rural Area under Strong Urban Influence', which is demonstrating pressure for individual dwellings, and where housing is restricted in accordance with the policies set out in the Meath County Development Plan 2013-2019 (as varied). Policy RD POL3 of the Plan 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 areas". Bearing in mind the extent of development already permitted in the area, it is considered that the proposed development, if permitted, would be contrary to the above Guidelines and materially contravene the aforementioned policy, in that an additional house would exacerbate ribbon development, contribute to the encroachment of random rural development in the vicinity, militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would be contrary to the proper planning and sustainable development of the area.

2. *The proposed development, if permitted, would seriously injure the amenities and depreciate the value of properties in the vicinity, would establish an undesirable future precedent for backland developments of this kind and would be contrary to the proper planning and sustainable development of the area."*

3.2. Planning Authority Reports

3.2.1. Planning Reports

This is the basis of the Planning Authority's decision to refuse planning permission for the development sought.

3.2.2. Other Technical Reports

Transportation: No objection.

Water Services: No objection.

3.3. Prescribed Bodies

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

3.4. Third Party Observations

- 3.4.1. Submissions received from two local councillors in support of the development.

4.0 Planning History

4.1. Site

- 4.1.1. The planning history of the site includes but is not limited to the following:

P.A. Reg. Ref. No. AA190631: The appellants were **refused** planning permission refused for a detached dwelling house, detached garage, on-site wastewater treatment system, percolation area and all associated site works. The two stated reasons for refusal related to the adverse visual amenity impact on the area arising from the proliferation of one-off dwellings and that the applicants had not demonstrated they meet the requirements for a dwelling in this area, an area indicated as being outside of a designated settlement and in a Rural Area under Strong Urban Influence.

P.A. Reg. Ref. No. DA/101068: Planning permission was **refused** for the construction of a 2-storey house, garage, wastewater treatment system and all associated site works. The three stated reasons for refusal included: adverse visual amenity impact; failure to comply with rural settlement strategy; and, public health concerns.

- 4.1.2. **In the Vicinity**

ABP-302713-18 (P.A. Reg. Ref. No. AA/171428): On appeal to the Board planning permission was **granted** for a garage and car port attached to the side of previously approved detached dwelling house and all associated site works. This site is located c96m to the south east of the appeal site via the lane serving the site and the L-5032.

5.0 Policy Context

5.1. Local Planning Policy Provisions

- 5.1.1. The Meath County Development Plan, 2013 to 2019, is the applicable development plan.
- 5.1.2. Chapter 10 of the Development Plan deals with the matter of rural development.
- 5.1.3. Section 10.3 of the Development Plan sets out the policies for rural area types and it includes policies for Rural Areas under Strong Urban Influence.
- 5.1.4. Section 10.7 of the Development Plan includes design criteria for residential development in rural areas including ancillary structures.

5.2. National Planning Provisions

- Project Ireland 2040 - National Planning Frameworks, 2018.
- Sustainable Rural Housing Guidelines, 2005.

5.3. Natural Heritage Designations

- 5.3.1. None in the vicinity of the site.

5.4. Environmental Impact Assessment/Screening

- 5.4.1. Having regard to the nature and scale of the development sought under this application, the significant separation distance from designated sites, there is no real likelihood of significant effects on the environment arising from the proposed development. I consider that 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:

- An application was made on foot of a planning meeting and concern is raised that they were not advised that planning permission would not be given; a considerable sum of money has been spent to date on making applications; and, the Planning Authority's decision is not based on the facts of the application itself.
- Both of the appellants were raised; have family connections; and, strong links to this area.
- The lane serving the site is maintained by the Council and it is argued that this lane is not a private lane.
- The proposed development is not ribbon development or backland development but infill development.
- Permission was granted for a separate development on Fleenstown Lane weeks prior to the appellants first refusal for a dwelling on this site.
- It is questioned whether this refusal would set a precedence for other similar developments in this locality.
- The Board is sought to overturn the decision of the Planning Authority.

6.1.2. The appellants submitted a request for an Oral Hearing. After consideration the Board concluded that the issues raised by the appellant can be adequately addressed through the written submissions and that there was no real need for an oral hearing in this case.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The issue of ribbon development was raised during the pre-planning consultations.
- There is a high qualifying threshold by virtue of National Policy Objective 19 of the National Planning Framework.
- This lane is not part of a public road as suggested and is substandard in nature. In its current overgrown state this lane which is subject to a right of way is devoid of any road frontage and is therefore considered backland development.

- To permit the proposed development at this location would be contrary to the proper planning and sustainable development of the area and it would materially conflict with policy RD POL 3 which seeks to protect areas from unsightly ribbon development.
- The Board is requested to uphold their decision.
- Should permission be granted it is requested that recommended conditions are imposed.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. I consider the key planning issues relating to the assessment of this appeal case are:

- Concerns raised over the Planning Authority's handling of this application.
- Principle of Development.
- Visual Amenity Impact.
- Other Issues Arising.

7.1.2. The matter of 'Appropriate Assessment' also needs to be assessed.

7.2. **Concerns raised over the Planning Authority's handling of this application.**

7.2.1. I have noted the concerns raised by the appellants on the matter of the Planning Authority's handling of this application. In particular, the pre-planning consultation prior to the submission of this application. I have also noted the Planning Authority's response in relation to these concerns and I am cognisant that pre-planning consultations are not a detailed examination of a planning scenario nor does the carrying out of such consultations by the Planning Authority prejudice their performance in carrying out any of their functions under the Planning Acts or other ancillary regulations. I am further cognisant that the Board does not have an ombudsman type role of such matters as part of its determination of this appeal which for clarity is restricted to a *de novo* consideration of the proposed development set out in this application.

7.3. **Principle of Development**

- 7.3.1. The appeal site is located in an area that lies outside of a designated settlement and in an area defined as being under strong urban influence as defined in the Sustainable Rural Housing Guidelines for Planning Authority's, 2005. This is likely due to a number of locational factors including but not limited to its proximity to a number of large urban areas, in particular Dublin city but also the strong urban structures present in Ashbourne, Swords, Malahide, Balbriggan, Drogheda and Navan for example together with the sites close proximity to a number of principal national transportation corridors including the M2, M50 and M1 corridors with the site also being within easy reach of Dublin Airport.
- 7.3.2. The National Planning Framework states that the *"Irish countryside is, and will continue to be, a living and lived in landscape focusing on the requirements of rural economies and rural communities, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities"*. It also recognises that there is a continuing need for housing provision for people to live and work in the countryside and it indicates that careful planning is required to manage the demand in our most accessible countryside around cities and towns. In this regard it advocates focusing on the elements required to support the sustainable growth of rural economies and rural communities. It goes on to state that *"it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns"* with this being subject to site and design considerations.
- 7.3.3. In keeping with this National Policy Objective 19 states inter alia: *"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 areas and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements"*.

In addition, National Policy Objective 3a sets out an objective to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.

- 7.3.4. In relation to the local planning policy provisions Chapter 10 of the Meath County Development Plan, 2013 to 2019, sets out the planning policy approach for rural development with it setting out its key strategic objectives as including RUR DEV SO 6 which seeks “*to protect and enhance the visual qualities of rural areas through sensitive design*”. It also includes strategic policies such as RUR DEV SP 1 under which the Planning Authority advocates a tailored approach to rural housing in order to distinguish between rural generated and urban generated housing alongside recognising the individual rural area types.
- 7.3.5. In relation to rural area types, the site is located in Area 1, an area that the Development Plan recognises is under Strong Urban Influence.
- 7.3.6. The relevant policies for this area include policies RD POL 1 which seeks to ensure that individual house developments satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to normal planning considerations; RD POL 2 which essentially seeks to direct urban generated housing to towns and villages in the area of the Development Plan; and, RD POL 3 which seeks “*to protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development*” alongside “*maintaining the identity of these urban centres*”. In a manner consistent with national planning policy provisions there is a general presumption against the principle of such developments on un-serviced lands outside of settlements.
- 7.3.7. It would appear based on the appeal submission to the Board and the documentation submitted with the planning application that both appellants have intrinsic links to this local area. Notwithstanding this I raise concern that the documentation provided does not fully clarify by way of substantive and robust evidence that they meet the requirements for a dwelling house at this location based on current local through to national planning policy provisions.
- 7.3.8. Having regard to other local and national planning policy provisions as set out above which essentially seek to regulate rural housing alongside consolidate development within serviced urban/suburban land I therefore consider that the proposed development would be contrary to the public good and the proper planning as well as

sustainable development of this particular rural locality whose public road network is characterised in the vicinity of the site by a strong proliferation of ribbon development resulting from such *ad hoc* developments in the past. In my view it also needs to be highlighted that the site is located on un-serviced land that is remote from services such as a public potable water supply and mains drainage. It is further an area that is under significant pressure due to its commuter location and proximity to a number of key settlements. For these reasons, the provision of further one-off dwellings at such a location where no demonstrable economic and/or social need is apparent is not consistent with channelling such developments to serviced land within the footprints of existing settlements and, if permitted, would conflict with the proper planning and sustainable development of this area.

7.4. Visual Amenity Impact

- 7.4.1. The Planning Authority in their first reason for refusal raises concern that the proposed development would be contrary to policy RD POL 3 of the Development Plan 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 areas*”. I consider that this policy is reasonable and as the rural landscape setting intrinsic qualities and character within the immediate and wider setting of the site, particular frontage onto the public road network, has been significantly diminished by the proliferation of *ad hoc* one off detached dwellings that have in the majority of cases no apparent functional interrelationship or connectivity to the rural landscape within which they are sited nor no apparent economic need to be situated on sensitive to change un-serviced and remote from settlement rural land.
- 7.4.2. Having inspected the site and its environs I consider that to permit the proposed dwelling would result in the further proliferation of such developments within a rural landscape setting that has been saturated beyond capacity to absorb any further unnecessary such developments.
- 7.4.3. Bearing in mind the extent of development already existing and permitted in the surrounding area, I consider that the proposed development, if permitted, would be contrary to Policy RD POL 3 of the Development Plan. It would also be contrary to national planning policy provisions including but not limited to Sustainable Rural

Housing Guidelines, 2005. This seeks that Planning Authority avoids exacerbating haphazard ribbon development. In addition, it would be contrary to the National Planning Framework which seeks a balanced approach to urban and rural development. This document raises concern that the location of housing in Ireland has unfortunately taken on a dispersed and fragmented character which has led to people living further away from their jobs. It further states *“development sprawl at every settlement level in Ireland has manifested as scattered development, ‘leapfrogging’, continuous suburbs and linear patterns of strip or ribbon development”* and that *“this type of development has made it costly and often unfeasible for the State to align and invest in infrastructure delivery where it cannot be justified. It has made it costly and often unfeasible for the State to align and invest in infrastructure delivery where it cannot be justified. It has also hampered effective responses to climate change, compounded issues such as congestion and pollution, increased commuting times and has had an overall negative impact on peoples health and well-being”*.

- 7.4.4. I therefore raise a concern that to permit the proposed development would not only conflict with policy RD POL 3 of the Development Plan, it would also be contrary to National Policy Objective 33 which states:

“Prioritise the provision of new homes at locations that can support sustainable development at an appropriate scale of provision relative to location”.

- 7.4.5. Based on the reasons set out above I concur with the Planning Authority’s first reason of refusal as set out in their decision notification and that the proposed development, if permitted, would exacerbate ribbon development, contribute to the encroachment of random rural development in the vicinity, militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. As such it would be contrary to the proper planning and sustainable development of the area.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to nature and scale of the proposal, I consider that no Appropriate Assessment issues arise, and it is not considered that the proposed development

would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.6. Other Matters Arising

7.6.1. Public Health – Services

I am cognisant that the Planning Authority raised no particular issue on the matter of the wastewater provision on site to service the proposed dwelling. Notwithstanding this, having inspected the site and its setting there are a significant abundance of one-off dwellings adjoining and in the immediate surroundings of the site. These are all served by similar proprietary wastewater treatment systems. There also appears to be intensive agricultural land use which is aided by land spreading of slurry. The odours of this was heavy in the air of the site and from drainage ditches in the vicinity of the site on the day of my inspection.

I also observed the poor ground conditions on the site and around its perimeter boundaries. Throughout the ground was extremely spongy and heavy underfoot. I further observed flowing water in the drainage ditches adjoining the site and in the immediate area of the site.

I therefore raise a concern that the further proliferation of one-off detached dwellings could be prejudicial to public health in this locality, a locality that appears to be also dependent on individual potable water provided on site and in the absence of any substantiated beyond doubt demonstrable need I am not convinced that it would be in accordance with National Planning Objective 33 to permit the proposed development. This objective seeks to prioritise the provision of new homes at locations that can support sustainable development at an appropriate scale of provision relative to location. The proposed development for the reasons discussed is not consistent with this approach.

Based on the above, I am not satisfied that the further proliferation of wastewater treatment systems would not be prejudicial to public health and that there would be no contamination issues arising.

7.6.2. Undesirable Precedent

I consider that there is merit in the Planning Authority's conclusions as set out in their second reason for refusal that the proposed development, if permitted, would set an

undesirable precedent for future development of a similar nature in the surrounding area. However, I consider that it is reasonable and appropriate that every application be considered on its merits.

7.6.3. Access

The southern boundary of the site onto which a new access, revised boundaries and all associated works is proposed is bound by a restricted in width, overgrown, poorly surfaced cul-de-sac lane.

Whilst I acknowledge that this lane at its junction with Baltrasna Road and Fleenstown Lane to the east benefits from good sight lines to the north and east. It also benefits from improved surface treatments which I observed continue to the entrance serving an existing dwelling house whose site boundaries bound the southern side of the Baltrasna Road and Fleenstown Lane junction.

This improved surface treatment also serves an existing opening to an agricultural field that bounds the western boundary of the said existing dwelling. From this point the condition of the lane deteriorates significantly in terms of surfacing and maintenance. It does not appear to be in regular use either. Towards the end of the cul-de-sac lane, the lane is blocked by the large deposit of soil and other debris. Access into the site from this lane is overgrown and restricted. There is little indication that it has in use for agricultural grazing or other purposes for considerable time.

As such I consider that the lane on which access is proposed for the majority of its length this lane is substandard and I am not convinced that it is of a suitable safe standard to serve the proposed development.

Further, in terms of improvements to the same I am not convinced that the applicant has demonstrated that they have any consent to make improvements to it to accommodate the traffic generated by the proposed development nor have they substantiated that the lane that runs along the length of the southern boundary to where it terminates to the west of the proposed entrance is in public ownership or indeed whoever is in ownership consents to or is willing to provide the upgrades required to this lane.

Moreover, there is no consent from the agricultural landowner on the opposite side of the lane for any interference with their existing boundary which consists of mature

trees, hedgerow and verges that appear to have encroached onto the lane due to the general lack of upkeep.

There are also no tangible proposals for its actual improvement accompanying this application.

In addition to the above concern I also observed a high volume of traffic using the public road network in the vicinity of the site with this public road network in places being substandard in width and alignment. I consider it is not of a design to safely and efficiently cater for the level of traffic that it currently accommodates.

Based on the above considerations I am not convinced that the applicant has demonstrated that the proposed site can be served by a safe access onto the Baltrasna Road and Fleenstown Lane Junction.

The Board may consider this a new issue in terms of their consideration of this appeal case.

- 7.6.4. **Residential Amenity Impact:** Should the Board be minded to grant permission for the proposed development it is recommended that site appropriate boundary treatments be required by way of condition along the eastern boundary to ensure that no undue level of overlooking arises to the adjoining residential property. This boundary at present is by and large not demarcated and where there are elements of boundary treatments present these are porous in nature.

8.0 Recommendation

- 8.1. I recommend that planning permission should be **refused**. The Board may consider the second reason for refusal a new issue.

9.0 Reasons and Considerations

1. The proposed development is located in an area under Strong Urban Influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, and under the current Meath County Development Plan, 2013 to 2019, as varied, i.e. Area Type 1, for which housing is restricted on such land and only deemed permissible in accordance with the provisions set out in the said Plan. In particular by way of policy RD POL 3 of the said Plan which seeks “*to protect*

areas falling within the environs of urban areas in this Area Type from urban generated and unsightly ribbon development and to maintain the identity of these urban areas". This policy is considered reasonable.

It is further a policy of the planning authority, as set out in the Development Plan, to channel housing into serviced centres and to restrict development in rural areas to that necessary to serve the needs of those engaged in agriculture and other rural activities. This approach is consistent with National Policy Objective 3a of the National Planning Framework, 2018, which seeks to channel housing nationally within the built footprint of existing settlements. This approach is considered reasonable.

Moreover, the proposed development based on the information submitted with this application, does not cater for locally derived housing needs, in a manner that is considered to be in compliance with the Rural Settlement Strategy set out in the Development Plan but also, if permitted, would be conflict with National Policy Objective 19 of the National Planning Framework, 2018, which indicates that it is national policy to facilitate the provision of housing based on the core consideration of demonstrable economic or social need to live in a rural area. The Board is not satisfied based that the appellant has demonstrated this need.

The proposed development would contribute to ribbon development in this area, it would lead to demands for the uneconomic provision of further public services and communal facilities in an area where these are not proposed and would interfere with the rural character and attractiveness of the area. The proposed development would, therefore, conflict with Policy RD POL 3 which seeks to protect such rural areas from ribbon development; and, it would further conflict with National Policy 33 of the National Planning Framework, 2018, which seeks to *"prioritise the provision of new homes at locations that can support sustainable development at an appropriate scale of provision relative to location"*.

For these reasons the proposed development would be contrary to the proper planning and sustainable development of the area.

2. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of

development served by septic tanks in the area. The proposed development, would, therefore, be prejudicial to public health.

Patricia-Marie Young
Planning Inspector

29th day of January, 2020.