



An
Bord
Pleanála

Inspector's Report

ABP-306580-20

Development	Retention of existing 2 bedroom, single storey demountable dwelling unit (circa 30m ²)
Location	Cushinstown, Rathfeigh, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	AA191493
Applicant(s)	Kathleen McDonagh
Type of Application	Retention permission
Planning Authority Decision	Refuse permission (2 no. reasons)
Type of Appeal	First Party
Appellant(s)	Kathleen McDonagh
Date of Site Inspection	05/05/2020
Inspector	Conor McGrath

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1.0 Description of Site and Proposed Development

- 1.1. The appeal site is located in a rural area at Cushinstown, Rathfeigh, Co. Meath, approx. 9.5km north of Ashbourne on the N2. The site comprises an area of approx. 0.57ha, generally under grass. The western part of the site is provided with a hard core surface and is currently occupied by two temporary portacabin / demountable type structures. The roadside boundary comprises mature trees and hedgerow and the site is accessed directly from the N2. A stream flows east along the northern site boundary which joins a watercourse flowing northeast to the rear of the site. The N2 at this location is provided with reduced hard shoulder on each side.
- 1.2. The proposed development comprises the retention of one existing portacabin / demountable dwelling, wastewater treatment system and associated works. The structure to be retained is that located closest to the western site boundary.

Note: I was unable to access the site at time of inspection.

2.0 Planning Authority Decision

2.1. Decision

The planning authority decided to refuse permission for the proposed development for two reasons as follows:

1. The site is proposed to be accessed off the National Primary Road N2, contrary to development plan policy and National Policy. The proposed development would endanger public safety by reason of traffic hazard and interfere with the safety and free flow of traffic along this strategic national route.
2. The site is located within an area identified as a “Rural Area under Strong Urban Influence”, where single house development which is not rurally generated should more properly located in settlement centres. On the basis of the information provided in the application, the applicants have not established a rural housing need for a dwelling at this location.

2.2. Planning Authority Reports

2.2.1. Planning Reports

There is a history of refusals for such structures on this site and on the site to the north. An injunction in relation to unauthorised activity on the site was secured in 2011. The applicant has not submitted as Local Need form and it is not possible to assess compliance with Rural Housing policy. No design statement has been submitted.

No materially different additional information has been submitted from that presented in previous planning applications. There is no reason to change the previous determinations. The existing entrance has inadequate sightlines and does not appear to be authorised. The design of the structure is alien to the rural setting and does not accord with the Rural House Design Guidelines. Refusal recommended.

2.3. Prescribed Bodies

TII: The application is at variance with official policy in relation to control of development on National Roads and would adversely affect the operation and safety of the national road network.

3.0 Planning History

3.1. Appeal site:

- PA ref. NA/130302: Permission refused in 2013 to Mr. Patrick Gavin to retain a temporary dwelling on the site for a period of 3 years, planning permission to construct a wastewater treatment system and site entrance and outline permission for a permanent dwelling on the site. The reasons for refusal reflect the current appeal case.
- PA ref. NA/20366: Permission refused in 2002 for a dwelling on the site.
- PA ref. 98/1186: Permission refused in 1998 for a dwelling on the site.

3.2. There have been a series of planning applications on adjoining lands to the north:

- PA ref. AA/140838, PA ref. AA140837, PA ref. AA140836: Permission was refused in 2014 for these three separate planning applications each for retention of an existing dwelling unit and wastewater treatment system and a shared entrance from the N2.
- PA ref. NA130163 ABP ref. PL17.241996: Permission refused in 2013 for retention of shared entrance from the N2, retention of existing 3 no. demountable dwelling units and installation of 3 No. individual wastewater treatment units.
- Four concurrent applications for four no. demountable dwellings were all refused permission on appeal in 2012 for reasons reflecting the current appeal case.
 - PA ref. NA/111093 ABP ref. PL17.240253
 - PA ref. NA /111094 ABP ref. PL17.240258
 - PA ref. NA/111095 ABP ref. PL17.240259
 - PA ref. NA/111096 ABP ref. PL17.240260
- PA ref. NA/100542: Permission refused in 2010 for 4 no. demountable dwellings and 2 no. wastewater treatment systems.

4.0 Policy Context

4.1. Project Ireland 2040 - National Planning Framework

National Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

National Policy Objective 19: 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;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

4.2. Spatial Planning and National Roads - Guidelines for Planning Authorities

Proper planning is central to ensuring road safety. The creation of new accesses, and intensification of existing accesses, to national roads gives rise to the generation of additional turning movements that introduce additional safety risks to road users. Therefore, from a road safety perspective, planning authorities, the NRA, road authorities and the Road Safety Authority must guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50-60 kmh apply as part of the overall effort to reduce road fatalities and injuries. Section 2.6 identifies exceptional circumstances where a less restrictive approach may be applied.

4.3. Sustainable Rural Housing Guidelines for Planning Authorities

The Guidelines distinguish between:

- Housing needed in rural areas within the established rural community by persons working in rural areas or in nearby urban areas (rural generated housing), and
- Housing in rural locations sought by persons living and working in urban areas, including second homes (urban generated housing).

With regard to urban generated housing in the open countryside, the NSS identified four broad categories of rural area types with differing development circumstances that required tailored settlement policies in the development plan process.

The appeal site is located within an area identified generally as an Area Under Strong Urban Pressure. In rural areas under strong urban influences, development driven by cities and larger towns should generally take place within their built-up areas or in areas identified for new development through the planning process.

These areas will exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

4.4. Meath County Development Plan 2013-2019

Strategic Policies

RUR DEV SP 1 To adopt a tailored approach to rural housing within County Meath as a whole, distinguishing between rural generated housing and urban generated housing in rural areas recognising the characteristics of individual rural area types.

RUR DEV SP 2 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, subject to compliance with normal planning criteria....

The site is located within Area 1 - Rural Areas under Strong Urban Influence

RD POL 1 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, 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 in the area of the development plan.

Sections 10.4 and 10.5 of the Plan outlines the criteria by which applicants can demonstrate a local housing need.

Transport Policies

TRAN POL 28 To safeguard the capacity and safety of the National road network by applying the provisions of the Department of Environment Community and Local Government's – 'Spatial Planning and National Roads-Guidelines for Planning Authorities

TRAN POL 40 To avoid the creation of any additional access point from new development / intensification of traffic from existing entrances onto national roads outside the 60kph speed limit, except as indicated on Maps No 6.4.1 - 6.4.7.....

Rural Development Policies

RD POL 36 To develop and maximise the opportunities of the county's national primary and secondary roads as key strategic infrastructure vital to the county's continued economic development and to protect this strategically important infrastructure from unplanned ribbon development or random one-off housing development.

RD POL 37 To ensure that future development affecting national primary or secondary roads, shall be assessed in accordance with the guidance given in the document 'Spatial Planning and National Roads - Guidelines for Planning Authorities'.

5.6.3 Groups with Specific Design/Planning Needs

There are several groups considered to have specific planning and design needs. These includetravellers and members of ethnic minority groups. It is a policy of the council to recognise the need for people with special needs to enjoy an appropriate living environment and to support the provision of facilities for people with special needs.

HS OBJ 3 To provide appropriate accommodation for Travellers through the implementation of the "Traveller Accommodation Programme 2009 - 2013" and any subsequent Programme adopted during the life of this Development Plan.

4.5. Natural Heritage Designations

The appeal site is not designated for any nature conservation purposes. The closest site is the River Boyne and River Blackwater SPA 004232 located approx. 10km north and 12km west of the site. Drains adjoining the site eventually discharge to the River Nanny, which reaches the sea at Laytown, River Nanny Estuary and Shore SPA (004158).

4.6. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity and the absence of any direct 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.

5.0 The Appeal

5.1. Grounds of Appeal

Kathleen McDonagh makes the following points in the appeal against the decision to refuse permission for the proposed development:

- There is no evidence that another entrance would cause intensification of traffic.
- A policy cannot be contravened when the precedent has already been set at this location.
- The site is located in a rural residential cluster where there are no farmhouse type dwellings.
- All adjoining houses are one-off houses so there is currently no link to a rural community in this cluster.
- The applicant is a member of the travelling community and the nature of the dwelling unit is past of Traveller Culture.
- The development plan makes no allowance for traveller culture / style and not all sections of society will be suited to certain styles of housing.

5.2. Planning Authority Response

In response to the appeal, the planning authority make the following comments:

- Many adjoining entrances were created prior to the current development plan, when there was less pressure on the national road network and do not therefore create a precedent for this development.
- The proposed entrance is unsafe and does not accord with design guidance.
- The applicants had not previously stated their ethnicity. The planning authority will always engage in order to establish the specific housing needs, regardless of ethnicity.
- Section 5.6.3 of the development plan makes provision for travellers needs.
- In order for the planning authority to facilitate the applicants, they need to set out their specific planning and design needs. In this case no rural housing need has been established.

6.0 Assessment

6.1. I propose to consider the appeal under the following broad headings:

- Rural Housing Policy
- Roads and Traffic
- Public Health.

6.2. Rural Housing Policy

6.2.1. The appeal site is located within an area identified as being under strong urban influence. Development plan policies seek to facilitate the housing requirements of the rural community in such areas and identifies specific criteria by which applicants can demonstrate a local housing need. This is consistent with national policy on rural housing. The applicants in this instance have not demonstrated any local rural housing need or connection to this location. The development of a demountable structure on the site in the absence of such need would be contrary to local and

national policy guidance. The application fails to identify or describe the existing second demountable / portacabin structure on the site.

- 6.2.2. Traveller ethnicity has been raised in the first party appeal, however, this alone is not a basis on which to override such local and national rural housing policies. There are separate requirements on the planning authority to meet the accommodation needs of the County's indigenous Traveller community.

6.3. Roads and Traffic

- 6.3.1. The appeal site is located along the N2, National Primary Route, with an existing vehicular entrance at the southwestern corner of the site. Planning authority reports indicate that this entrance is unauthorised. Its retention is not specifically included in the description of development, although it may be considered to be included as part of the associated site works.
- 6.3.2. The N2 is provided with a narrow hard shoulder at this location and is generally straight and level on the approaches to the site. The 100kph limit applies at this location and traffic was observed to travel at or close to this limit. Sightlines at the entrance are deficient, significantly failing to meet requirements set out in NRA TD 41-42/11 of 215m. No details are provided with the application as to how these might be achieved on the site and any works in this regard would appear to encroach upon adjoining lands to the south.
- 6.3.3. Local and National policy on the creation of new entrances onto National Roads is clear. The proposed development does not achieve the required standards and would result in additional direct turning movements onto this busy national route where the 100kph limit applies, resulting in the creation of a traffic hazard.

6.4. Public Health

- 6.4.1. This planning application is described as retention of dwelling and wastewater treatment plant, while the application form refers to a connection to a new wastewater treatment plant. Site suitability assessment tests were undertaken in 2013, while the Proprietary wastewater treatment plant specification / quotation from *Oakstown Environmental* are dated 23rd October 2019. The application was lodged

on 8th November 2019. Having regard to these dates, it would appear therefore that it is full planning permission rather than retention of the treatment plant which is required in this case. I was unable to verify details of the wastewater treatment system on site.

- 6.4.2. The application was accompanied by a site suitability assessment report. While this report indicates that a bored well is provided on the site, the application form appears to refer to connection to public mains. The submitted drawings are do not provide any details in this regard.
- 6.4.3. The site overlies a Regionally Important Aquifer - Karstified (diffuse of high vulnerability). The groundwater protection response is R2¹: Acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required (EPA, 2000) are met and that the likelihood of microbial pollution is minimised.
- 6.4.4. I note that the site assessments records a groundwater protection response of R1. Trial holes encountered the watertable at 1.2m bgl. T-values of 36.33 and P-values of 21.31 are reported. A proprietary treatment plant was recommended. Based on the recorded values, a tertiary treatment plant may be considered suitable for the site, however, the application is deficient in terms of the specific design and layout of the treatment plant and disposal system. It is also not clear what is the relationship between the wastewater treatment system and the eastern demountable structure on the site, which is not identified on the site plans.
- 6.4.5. Having regard to the substantive reasons for refusal in this case, I do not consider that it is necessary to include this as a new / additional reason for refusal.

7.0 **Appropriate Assessment Screening**

- 7.1. The appeal site is remote from any European sites. The surface water flow in this location is to the northeast generally, draining to the River Nanny. This discharges to the River Nanny Estuary and Shore SPA (004158) approx. 20km downstream of the appeal site. The development proposes discharge of wastewater to ground,

however, the site suitability assessment indicates that subject to installation and maintenance of the proposed wastewater treatment system as specified, this is generally an acceptable proposal.

- 7.2. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on River Nanny Estuary and Shore SPA (004158), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. That permission be refused for the proposed development.

9.0 Reasons and Considerations

1. It is considered that the proposed development, by itself and by the precedent which it would set for other relevant development, would endanger public safety by reason of traffic hazard because the site is located alongside the heavily-trafficked National Primary Road N2 at a point where a speed limit of 100 km/h applies and the traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road. Furthermore, the sightlines at the entrance are deficient. The proposed development would therefore be contrary to the provisions of the 'Spatial Planning and National Roads-Guidelines for Planning Authorities' and would contravene the objectives of the planning authority to safeguard the capacity and safety of the National road network.
2. Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Development Plan for the area and the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and in an area

where housing is restricted to persons demonstrating local need in accordance with the current Meath County Development Plan 2013-2019, it is considered that the applicant has not demonstrated compliance with the housing need criteria as set out in the Guidelines or the Development Plan for a dwelling at this location. The proposed development, in the absence of any identified locally based need for the dwelling, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Conor McGrath
Senior Planning Inspector

11/05/2020