



An
Bord
Pleanála

Inspector's Report

ABP-306898-20

Development	A dwelling house, garage, new site entrance, septic tank and percolation area, and all associated works.
Location	Bishopswood, Portarlington, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	19/482
Applicants	Brian Gorman & Gemma Byrne
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant of Permission
Appellants	Seamus & Patricia Whelan
Observer(s)	None
Date of Site Inspection	08.06.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located on a cul-de-sac approx. 1.5km east of Portarlington in south east Co. Offaly.
- 1.2. The site comprises the southern part of a larger field. The local road is straight and narrow at this location. There are other one-off rural houses served by this road. There are hedgerows along the roadside, southern/side and rear/western boundaries. The site has a gentle north-south slope.
- 1.3. The site has a stated area of 0.405 hectares.

2.0 Proposed Development

- 2.1. The application is for permission for a house, garage, vehicular entrance, septic tank and percolation area.
- 2.2. The proposed dormer style house has a stated floor area of 239.4sqm and a height of approx. 7.8 metres. It will be externally finished in plaster and limestone with a blue/black slate roof. The proposed garage has a stated floor area of 39sqm and an indicated height of 5.41 metres.
- 2.3. Further information was submitted in relation to, inter alia, the applicants' compliance with the rural housing policy, a proposed landscaping plan and details of the proposed septic tank and percolation area.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to 13 no. conditions including a seven-year occupancy condition, external finishes, use of the garage, site landscaping, sightlines, wastewater treatment, surface water disposal, hours of construction, agreement with Irish Water and development contributions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports dated 02.12.2019 and 19.02.2020 form the basis of the planning authority decision. The Report considers that, having regard to the nature, scale and intended use of the development, the submissions received, the content of the Offaly County Development Plan 2014-2020, Planning Guidelines and the pattern of development in the area, the development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would otherwise accord with the proper planning and sustainable development of the area.

3.2.2. **Other Technical Reports**

Area Engineer – No objection subject to conditions.

Water Services – No objection subject to conditions on foot of the further information response.

3.3. **Prescribed Bodies**

Irish Water – No objection. Observations made.

3.4. **Third Party Observations**

3.4.1. Two submissions were received. A submission in support of the development was submitted by a Laois County Councillor. An objection was received from Seamus and Patricia Whelan, Bishopswood, Portarlinton. The issues raised are largely covered by the grounds of appeal. The Planner's Report states that a representation was also made by an Offaly County Councillor.

4.0 **Planning History**

4.1. There has been one previous planning application on site.

P.A. Reg. Ref. 06/1724 / ABP Reg. Ref. PL 19.222944 – Permission was refused in 2007 for a dormer house, entrance and wastewater treatment system because of (i) non-compliance with the rural housing policy and (ii) the development would

consolidate the pattern of urban sprawl, would contribute significantly to the existing ribbon development, would lead to the uneconomic provision of services in this rural area and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF)

5.1.1. National Policy Objective 19 states it is an objective 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.

5.2. Eastern & Midlands Regional Spatial & Economic Strategy 2019-2031 (RSES)

5.2.1. Section 4.2 (Settlement Strategy) – Support the sustainable growth of rural areas by promoting the revitalisation of rural towns and villages, including ready to go regeneration projects coupled with investment where required in local employment and services and targeted rural housing policies, to be determined by local authorities.

5.2.2. Section 4.8 (Rural Places: Towns, Villages and the Countryside) states, inter alia in relation to housing, that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth.

5.2.3. Regional Policy Objectives for Rural Areas include RPO 4.77 and RPO 4.78 which, generally, support local authority development plans prioritising the regeneration of rural towns, villages and rural settlements. Policy RPO 4.80 reiterates National Policy Objective 19 where it states that, in Rural Areas Under Strong Urban Influence and Stronger Rural Areas, local authorities shall manage urban generated growth by

ensuring that in these areas the provision of single houses in the open countryside is 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.

5.3. Sustainable Rural Housing Guidelines for Planning Authorities, 2005

- 5.3.1. These guidelines are relevant to the planning application. Circular Letter SP 5/08 was issued after the publication of the guidelines.

5.4. Offaly County Development Plan 2014-2020

- 5.4.1. Section 1.15.6 (Approach to Future Population Growth – Housing in the Open Countryside) states the settlement strategy recognises the tradition of rural living and the requirements of people connected with the rural area and/or with an identified need to reside in the open countryside. Housing in the open countryside is informed by the Sustainable Housing Guidelines (2005) which provides that planning authorities distinguish between areas under strong urban influence, stronger rural areas and structurally weak areas. The rural housing policy is specifically aimed at restricting what the guidelines refer to as ‘urban generated housing’ whilst prescribing that ‘rural generated housing’ which will be facilitated by way of policy. In Map 1.3 (Rural Area Types in County Offaly) the site is located in an area of ‘strong urban influence’. In Map 1.4 (Rural Housing Policy Map) the site is in a ‘pressure area’.
- 5.4.2. The rural housing policy is set out under Policy SSP-18. Within areas of the open countryside identified as a pressure area a positive presumption will be given towards a new single house for the permanent occupation of an applicant who falls within one of three separate categories set out. These categories are local rural persons, persons working fulltime or part time in rural areas or exceptional health circumstances.
- 5.4.3. Section 8.7 (Development Management Standards – Single Houses in the Countryside) is also relevant.

5.5. Natural Heritage Designations

- 5.5.1. The closest Natura 2000 site/heritage area is River Barrow and River Nore SAC approx. 500 metres to the south.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal are submitted by Seamus and Patricia Whelan, Bishopswood, Portarlinton. The main points made can be summarised as follows:
- The site is in an agricultural area and the narrow laneway provides access to farmland. There is concern about an increase in traffic on the laneway.
 - Flooding at the top of the road sometimes makes it impassable for cars.
 - Five houses have already been granted permission in a small area on the lane.
 - Permission was previously refused on site under ABP Reg. Ref. PL 19.222944.

6.2. Applicant Response

- 6.2.1. None received.

6.3. Planning Authority Response

- 6.3.1. The planning authority respectfully requests the Board to support its decision.

6.4. Observations

- 6.4.1. None received.

6.5. Further Responses

6.5.1. None.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with the Rural Housing Policy
- Siting and Design
- Traffic Impact
- Wastewater Treatment
- Appropriate Assessment

7.1. Compliance with the Rural Housing Policy

7.1.1. A core issue with every application for a one-off rural house is an applicant's compliance with the rural housing policy. The planning authority considered that the applicant Brian Gorman (who is referred to as 'the applicant' in this subsection) complies with the policy as no documentation was submitted relating to Gemma Byrne. The planning authority's rural housing policy is set out under Policy SSP-18 of the County Development Plan 2014-2020.

7.1.2. The applicant was considered to comply with Local Rural Persons Category 1 i.e. a person who was born within the local rural area or who is living or has lived in the local rural area (defined as the area generally within an 8km radius of where the applicant was born or is living) for a minimum of five years and who does not or has not ever owned a house in a rural area. The documentation submitted with the planning application states that the proposed house is for the applicant's own occupation. The applicant currently lives in the family home in Woodbrook, Portarlinton, Co. Laois which is approx. 6.1km to the south west of the proposed site and some documentary

evidence of this address has been submitted. The proposed site is owned by the applicant's uncle.

7.1.3. While the applicant may satisfy the rural housing policy as set out in the County Development Plan 2014-2020, I do not consider that national or regional policy in relation to rural housing has been met. The NPF and the RSES require that, in rural areas under urban influence or rural areas under strong urban influence, single housing in the countryside shall be provided based on the core consideration of demonstrable economic or social need to live in a rural area. The proposed site is located in one of these areas as evidenced by its location in an area of 'strong urban influence' (Map 1.3 – Rural Area Types in County Offaly) and in a 'pressure area' (Map 1.4 – Rural Housing Policy Map) of the County Development Plan. The applicant has not demonstrated any economic or social need to live in this rural area. The applicant is not a farmer as per Q.3 (a) of the planning authority's Supplementary Application Form No. 1. The only detail provided in relation to demonstrating a need to live in the rural area is that the applicant grew up and lives in a rural area.

7.1.4. Having regard to the foregoing, I consider that no demonstrable economic or social need to live in the rural area has been provided. To permit the development would therefore contravene national and regional policy in relation to rural housing and would have a detrimental impact on the viability of smaller towns, villages and rural settlements.

7.2. Siting and Design

7.2.1. The application is for a one-off house in the rural area.

7.2.2. In terms of siting, the proposed house is located centrally on site and is set back the required 25 metres from the road. Relatively substantial separation distances are provided to all boundaries. The site and general area are relatively flat. Existing hedgerows along the southern side and rear boundaries are to be retained. A hedgerow is to be provided along the proposed northern side boundary. The removal of the entire roadside boundary hedgerow to facilitate sightlines as set out in Condition 6(a) of the planning authority decision would not be in the interests of visual amenity or biodiversity. This is a narrow, cul-de-sac road with a low speed traffic environment

and it may not be necessary to remove approx. 53 metres of hedgerow to provide adequate sightlines.

- 7.2.3. A planning application for a one-off house was previously refused on site under P.A. Reg. Ref. 06/1724 / ABP Reg. Ref. PL 19.222944. That site was slightly larger than that subject of the current application as it also included an area adjacent to the north. The second reason for refusal in that decision stated that the development would consolidate the pattern of urban sprawl in the area, would contribute significantly to the existing ribbon development, would lead to the uneconomic demand for provision of services and would be contrary to the proper planning and sustainable development of the area. There are approx. eight other houses on this laneway, seven of them within approx. 300 metres of the proposed site. The site is on a narrow, rural roadway approx. 1.5km east of Portarlington and I consider that the provision of an additional house on this laneway, where no housing need has been demonstrated, 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.
- 7.2.4. The proposed house is a relatively substantial dormer house with a floor area of 239.4sqm and a height of approx. 7.8 metres. External finishes are render and limestone (Condition 3(d) requires the stone to be natural local cut stone). The window proportions are consistent and there are single storey extensions to both sides of the main area of the house. There are other dormer houses along the laneway. In terms of the design of the house, I consider it to be acceptable.
- 7.2.5. In conclusion, I consider the proposed house would contribute to a pattern of sprawl in the rural area close to Portarlington which would be contrary to the proper planning and sustainable development of the area.

7.3. Traffic Impact

- 7.3.1. The grounds of appeal state that the road is narrow and only permits one car to pass. The increase in traffic is a concern when the appellants, who are farmers, are carrying out their farming activities.
- 7.3.2. The road is narrow, approx. 2.5 metres wide, at the site location. Most existing houses on the road are located within 350 metres of the junction of the cul-de-sac and the

local road to the north. The cul-de-sac is approx. 1.1km long with a shorter boreen type cul-de-sac branching off it approx. 700 metres from the junction. I do not consider that the provision of an additional house as proposed would result in any undue traffic hazard or obstruction of road users or would have any significant impact on farming activities in the area. The house would have a set back which would allow vehicles to pass.

- 7.3.3. I do not consider that the increase in traffic that would result from the development is a significant concern.

7.4. Wastewater Treatment

- 7.4.1. The proposed development involves provision of a septic tank and percolation area.
- 7.4.2. The site is in an area with a locally important aquifer of moderate vulnerability. Groundwater was encountered at a depth of 2.1 metres in the 2.2 metres deep trial hole. Soil conditions were mainly silt with some clay, gravel, sand, cobbles and some boulders. Table B.2 (Response Matrix for On-Site Treatment Systems) of the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses identifies an R1 response category i.e. acceptable subject to normal good practice.
- 7.4.3. The T-test result was 9.92. A P-test was also carried out giving a result of 45.67. I consider the results to be consistent with the ground conditions observed on site. Though the trial hole and percolation test holes had been filled in the site comprises a grassed agricultural field with no indication of poor drainage qualities. A septic tank system is proposed. Table 6.3 (Interpretation of Percolation Test Results) of the Code of Practice states that, based on the T test result, the site is suitable for a septic tank system.
- 7.4.4. The proposed site, at 0.405 hectares, is relatively large and all separation distances set out in Table 6.1 (Minimum Separation Distances in Metres) are achieved. The planning authority sought further information, in part, on the size of the proposed percolation trench length. It had been cited as 90 metres for a population equivalent of five. However, as a four-bedroom house is proposed the design population equivalent, as per the August 2013 clarification, should be six with a consequent increase in the percolation trench length to 108 metres.

7.4.5. I consider that the site can accommodate the proposed septic tank system and it is acceptable. I also note the planning authority's Water Services Section had no objection to the development subject to standard conditions.

7.5. Appropriate Assessment

7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, relatively remote from and which has no hydrological pathway to any European site, 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.

8.0 Recommendation

8.1. I recommend that the planning application be refused for the following reason and consideration.

9.0 Reasons and Considerations

1. Having regard to the location of the rural site within an area of 'strong urban influence' (Map 1.3 – Rural Area Types in County Offaly) and in a 'pressure area' (Map 1.4 – Rural Housing Policy Map) of the Offaly County Development Plan 2014-2020, Regional Policy Objective RPO 4.80 of the Eastern and Midland Regional Spatial and Economic Strategy 2019-2031, National Policy Objective 19 of the National Planning Framework and the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, it is considered that the applicants do not come within the scope of the housing need criteria as set out for a house at this location. Furthermore, it is considered that the applicants have not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with Regional Policy

Objective 4.80 and National Policy Objective 19. The development, in the absence of any identified locally based genuine need for the house, would contravene regional and national housing policy and objectives, 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.

Anthony Kelly

Planning Inspector

02.07.2020