



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306950-20

---

<b>Development</b>	Construction of house, the installation of a waste water treatment plant and soil polishing filter.
<b>Location</b>	Faughanhill, Bohermeen, Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	KA191809
<b>Applicant(s)</b>	Louise Murtagh.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party v's Refusal.
<b>Appellant(s)</b>	Louise Murtagh.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> of June 2020
<b>Inspector</b>	Stephanie Farrington

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the townland of Faughanhill to the north of Bohermeen, Navan Co. Meath. The site is roughly square in shape and has a stated area of 0.3319 ha. The gradient of the site is relatively flat and the site is described within the application documentation as being in agricultural use. A drainage ditch occurs along the sites northern and eastern boundaries.
- 1.2. Access to the site is provided via an existing agricultural gated entrance from the cul-de-sac roadway to the north of the site. This road encloses the northern and eastern boundaries of the site which are defined by hedgerow and mature trees. The southern and eastern boundaries of the site are enclosed by a post and rail fence.
- 1.3. The area in which the site is located is semi-rural in nature. Existing development in the vicinity of the site includes one – off rural dwellings to the north and east of the site at the opposite side of the cul de sac road, agricultural buildings to the east of the site and agricultural lands to the south and west.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises of the construction of a single storey dwelling house, the installation of a waste water treatment plant and soil polishing filter, the modification of an existing site entrance gate and all associated site works.
- 2.2. The proposed dwelling has a floor area of 108sq.m. and a height of 7.38m.
- 2.3. Access to the development is proposed via modification to the existing agricultural entrance to provide an 8m entrance from the adjacent cul de sac road to the north of the site.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Meath County Council issued a decision to refuse planning permission in accordance with the following reasons and considerations:

1. Taken in conjunction with existing development in the vicinity, which is a strong rural area, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities. The proposed development would contravene the policy of the Planning Authority as expressed in the current Meath County Development Plan 2013-2019 (as varied) to direct residential development to serviced areas. Therefore it is considered the proposed development would establish an undesirable precedent for future development of this type and would, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design of the proposed dwelling, in particular the dominant hipped roof design is considered to be at variance with the rural building traditions and the rural character of this location and would establish an undesirable future precedent. The proposed development would therefore, materially contravene the Meath Rural Design Guide (Appendix 15) of the Meath County Development Plan 2013-2019 (as varied) in relation to the design of new dwellings in rural areas and as such would be contrary to the proper planning and sustainable development of the area.
3. The development contravenes materially conditions attached to existing permissions for development namely, condition number 3 attached to the permission granted by Meath County Council under planning register reference number KA/40669 and condition number 3 attached to the permission granted by Meath County Council under register reference number KA/40653.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's report reflects the decision of the planning authority. The following provides a summary of the points raised.

- Provides a summary of planning history for the application site and wider landholding. Notes condition 3 regarding the sterilising of landholding from future residential development in previous planning applications KA/40669

and KA/40653. It is stated that these conditions are still relevant as no application has been made to remove such conditions.

- Applicant is a longstanding resident of the area and demonstrates compliance with the requirements of rural housing need.
- Hipped roof design is not in accordance with rural vernacular traditions. A revised design could be sought but given the fundamental issue of the principle of the development and the planning history of the area this is not considered necessary.
- It is not considered that the proposal would have a harmful impact on the visual or residential amenity of the area. Satisfactory separation distance is provided from adjoining residential properties to the north and east.
- Visibility splays indicated on the application drawings have not been taken from the near side of the road edge as required. FI request could provide clarification. No comments received from Transportation Section.
- No known flooding issues relating to the application site.
- The site is not located within or directly adjoining any Natura 2000 site.

#### 3.2.2. Other Technical Reports

Environment Section: no objection to the proposed development subject to conditions.

#### 3.3. **Prescribed Bodies**

None

#### 3.4. **Third Party Observations**

None.

### 4.0 **Planning History**

- 4.1. This section of the report provides a summary of the planning history for the appeal and the larger landholding from which the appeal site is taken.

### Appeal Site

**P.A Ref KA/60405:** Planning permission refused to current applicant in September 2006 for a dormer dwelling, detached domestic garage, effluent treatment system with percolation area and vehicular entrance.

Reasons for refusal related to excessive density of development, excessive concentration of waste water treatment systems in unserviced rural area, material contravention of Conditions attached to P.A. Ref KA 40669 and concerns relating to the site assessment and suitability of site to accommodate disposal of effluent.

**P.A. Ref KA/60187:** Planning permission refused to current applicant in May 2006 for dormer dwelling, domestic garage and effluent treatment system with percolation area and vehicular entrance.

Reasons for refusal cited inadequate provision for treatment of effluent from the development and the proposed design would be at variance with the rural character of the area and would materially contravene the design guidance set out within the Meath County Development Plan.

### Site to the west of appeal site

**P.A. Ref KA40154** –Application by Paddy and Susan Clarke (Murtagh) for an entrance from public road, dormer style dwelling, garage, septic tank and percolation area. Request for further information issued in June 2004. Application withdrawn in July 2004.

### Site to the north west of appeal site

**P.A. Ref KA/40653:** Planning permission granted to Orla Murtagh and Karl Brady in June 2005 for domestic dwelling, vehicular entrance and effluent treatment system and percolation area. The development description outlines that the decision relates to a revised site layout from that previously submitted. Condition 3: Condition relating to a legal agreement in relation to the sterilisation of the larger landholding in which the site is located from future residential development.

**P.A. Ref KA/40270:** Permission refused to Orla Murtagh and Karl Brady, July 2004, for dormer style dwelling. Reasons for refusal relate to over development of land holding, excessive density of development in an unserviced rural area and detrimental to the rural character of the area.

Existing residential dwelling to the north of appeal site

**P.A. Ref KA/40669** Planning permission granted to Aoife Murtagh and David Reilly in June 2005 for construction of a domestic bungalow, garage, waste water treatment system.

Condition 3 related to a legal agreement in relation to the sterilisation of the larger landholding in which the site is located from future residential development in order to ensure a density of development appropriate to the rural area and to protect agricultural land.

**PA Ref KA/40248:** Planning permission refused to Aoife Murtagh and David Reilly in July 2004 for dormer bungalow, garage and waste water treatment system.

Dwelling to the north east of appeal site

**P.A. Ref: KA/70152, ABP Ref PL 17.223673** - Planning permission refused to Michael Murray by Meath County Council in May 2007 and An Bord Pleanala in December 2007 for retention of 2 storey dwelling, waste water treatment system. Reasons for refusal related to the scale, height and design of dwelling being out of character with the area, excessive concentration of effluent treatment systems in the area, excessive density of development in the rural area and that the proposed development would be contrary to planning condition no. 3 of both ref: KA/40669 and KA/40653.

**P.A. Ref KA/802674, ABP Ref PL17.231881** – Planning permission refused to Michael Murray by Meath County Council in October 2008 and An Bord Pleanala June 2009 for retention of 2 storey dwelling and demolition of single storey living area and car port area. Reasons for refusal in accordance with those cited under P.A. Ref KA/70152, PI 17.223673.

**P.A Ref KA/121025** – Application by Rose Murray for planning permission for retention of 2 storey house to a ridge height of 9.248m and ancillary residential facilities deemed invalid by Meath County Council in November 2012.

**P.A. Ref KA/130051** - Application by Rose Murray for planning permission for retention of 2 storey house to a ridge height of 9.248m and ancillary residential facilities deemed invalid by Meath County Council in February 2013.

Site to south west of appeal site

**P.A. Ref KA/60641, ABP Ref PL17.223053:** Planning permission refused to Sinead Murtagh by Meath County Council in March 2007 and An Bord Pleanala in August 2007 for dwelling, entrance and waste water treatment system on grounds of excessive density of development, traffic hazard and concerns relating to soil conditions and concentration of the waste water treatment systems in area.

**P.A. Reg: KA/70777:** Planning permission refused to Sinead Murtagh in January 2008 for dwelling, entrance and waste water treatment system.

## 5.0 Policy Context

### 5.1. Meath County Development Plan 2013-2019

5.1.1. The application site is located on unzoned rural lands, outside of any identified settlement in the Meath County Development Plan 2013.

5.1.2. Section 10.2 refers to the Rural Settlement Strategy. This outlines that *“rural development should be consolidated within existing villages and settlements that can build sustainable rural communities”*.

5.1.3. The Goal of the Strategy seeks:

*‘To ensure that rural generated housing needs are accommodated in the areas they arise, subject to satisfying good practice in relation to site location, access, drainage and design requirements and that urban generated rural housing needs should be accommodated within built-up areas or land identified, through the development plan process’*

5.1.4. Strategic Policies and Objectives include:

- *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 the 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. An assessment of individual rural development proposals including one-off houses shall have regard to other policies and objectives in this Development Plan, and in particular Chapter 9 Section 9.6.7 UNESCO World Heritage Site of Brú na Bóinne.*

- *RUR DEV SO 5 To support the vitality and future of Graigs for rural development and ensure a functional relationship between housing in Graigs and the rural area in which they are located.*

5.1.5. Three categories of rural area are identified within the County Development Plan. The application site is located within the Strong Rural Area (Area 2) as identified within Map 10.1 of the Meath County Development Plan.

5.1.6. Area 2 is described as follows within the County Development Plan:

*“This area is underpinned primarily by relative levels of residential stability compared to Area Type 1 within a well developed town and village structure and in the wider rural area around them. This stability is supported by traditionally strong, agricultural, economic base and the level of individual housing development activity in these areas tends to be lower than that within Area 1 and confined to certain areas”.*

5.1.7. Chapter 10 identifies that the Key Challenge for this area is *“To maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in the wider rural area”.*

5.1.8. The following policies relate to Area 2:

- RD POL 4: To consolidate and sustain the stability of the rural population and to strive to achieve a balance between development activity in urban areas and villages and the wider rural area.
- RD POL 5 – 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.

5.1.9. The settlement hierarchy set out within the County Development Plan includes rural nodes/ “Graigs”. Bohermeen is identified as a Graig within the Navan Area within Appendix 16 of the CDP. The appeal site is located c 2km from Bohermeen. The following policies and objectives are noted in this regard:



- CS OBJ 10 - *To support rural communities through the identification of lower order centres including small towns, villages and graigs to provide more sustainable development centres in the rural areas”*
- RD OBJ 1 - *To support Graigs located across the County in offering attractive housing options to meet the needs of the established rural communities and to support existing local community facilities such as schools, post offices etc.*
- RD POL 8 - *To ensure that the provision of housing in all Graigs shall be reserved for persons who are an intrinsic part of the rural community and comply with the local housing need criteria and policies set down within the relevant rural area type in this Chapter.*

5.1.10. Section 10.4 Local Housing Need Criteria. Section 10.4 refers to ‘Persons who are an Intrinsic Part of the Rural Community’ and states that the Planning Authority recognises the interest of persons local to or linked to a rural area, who are not engaged in significant agricultural or rural resource related occupation, to live in rural areas. Of relevance to this appeal, persons local to an area are considered to include:

- *Persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside;*

5.1.11. Section 10.5.1 – Development Assessment Criteria – outlines criteria that the planning authority shall also take into account in assessing individual proposals for one off rural housing. These criteria include the following:

- The housing background of the applicant in terms of employment, strong social links to rural area and immediate family
- Local circumstances such as the degree to which the area surrounding area has been developed and is tending towards becoming overdeveloped;
- The degree of existing development on the original landholding from which the site is taken including the extent to which previously permitted rural housing has been retained in family occupancy. Where there is a history of

individual residential development on the landholding through the speculative sale of sites, permission may be refused;

- The suitability of the site in terms of access, wastewater disposal and house location relative to other policies and objectives of this plan;
- The degree to which the proposal might be considered as infill development.

5.1.12. The Meath Rural House Design Guide is set out within Appendix 15 of the County Development Plan. Policy RD POL9 seeks “to ensure all applications for rural houses to comply with the “Meath Rural House Design Guide”.

5.1.13. Section 10.19 of the County Development Plan relates to technical requirements for new housing. The following policies are noted:

- RD POL 41 Roadside Boundaries
- RD POL 43 One Off Houses

## 5.2. Sustainable Rural Housing Development Guidelines 2005

5.2.1. 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 Areas under Strong Urban Influence, Stronger Rural Areas, Structurally Weak Areas and Predominately Dispersed Settlement Areas.

5.2.2. Map 1 of the guidelines provides an indicative outline of the NSS Rural Area types. The appeal site appears to be located within “Areas under Strong Urban Influence” within Map 1. The guidelines refer to the indicative nature of the Map and state that further detailed analysis of different types of rural areas would be carried out within the Development Plan process.

5.2.3. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

5.2.4. With respect to sterilisation agreements the Guidelines state,

*“In areas where very significant levels of rural housing development have taken place on the edges of cities and towns and where such areas may be tending to become overdeveloped, such agreements have provided a useful tool in enabling*

*planning authorities to support rural generated development on the one hand while avoiding over development of an area on the other.*

*However the inflexible nature of such agreements limits their usefulness except in highly exceptional circumstances.”*

5.2.5. Section 3.3.3 deals with ‘Siting and Design’.

### **5.3. National Planning Framework**

5.3.1. 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’.

### **5.4. Regional Economic Spatial Strategy for the Eastern and Midland Region**

5.4.1. The RSES recognises the major contribution that the rural areas make towards regional and national development in economic, social and environmental terms. The RSES aims to strengthen the fabric of rural Ireland, supporting rural towns and communities as well as the open countryside, improving connectivity, and supporting job creation, particularly in a more diverse range of sectors.

5.4.2. The RSES supports the consolidation of the town and village network, to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the Core Strategies of the County Development Plans.

## 5.5. Natural Heritage Designations

There are no relevant designated areas within the vicinity of the site. Nearest Natura 2000 sites include the River Boyne and Blackwater SAC and River Boyne and Blackwater SPA c.2.7km to the north of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The application seeks to address the reasons for refusal on the site under PA Ref KA/60187 and KA/60405 through revised design including reduction from two storey to single storey dwelling, reduction in no. of bedrooms from 3 to 2, reduction in floor area of dwelling from 181.7 sq.m. to 108 sq.m. and omission of proposed free standing garage.
- The proposal is for rural generated and not urban generated need. Applications for rural community should be facilitated.
- Policies in the County Development Plan do not state that all residential development should be directed to serviced areas but rather that urban generated housing should be directed to areas zoned for new housing development. In this regard it is contended that the proposal would not materially contravene the policies of the County Development Plan.
- No reference in the decision to what community facilities are lacking within the area.
- Reasons cited in first reason for refusal are unreasonable and flawed.
- The scale and design of the proposed house, including its hipped roof, is modest and reflects the vernacular architectural traditions. A reduction in the height of the pitched roof could have been achieved by means of a request for further information or condition.
- The applicant does not have details of the legal agreements under Condition 3 in permissions KA/40669 and KA/40653. Meath County Council have not provided proof that legal agreements exist in accordance with Conditions 3 of

the cited permissions. In the event that they do exist they place an unreasonable and unfair prohibition on the development on the site.

- The applicant is not aware if legal agreements are limited by time or if a financial condition is required for their removal. The applicant is not the owner of sites for which permission was granted under Register Reference KA/40669 or KA/40653. If agreements in relation to Condition no. 3 of these permissions do not exist it is unreasonable for Meath County Council to use such decisions as a basis to refuse planning permission for the development. Condition no. 3 of the cited permissions require action on behalf of the Council and owners of the relevant sites but not the applicant.

## **6.2. Planning Authority Response**

- 6.2.1. This outlines that the matters raised within the appeal have been addressed within the planner's report which informed the decision of Meath County Council to refuse permission for the proposed development. It is requested that the Board uphold the decision to refuse planning permission for the proposed development.

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Compliance with Rural Housing Policy
- Compliance with Meath Rural Design Guide
- Condition 3 attached to KA/40669 and KA/40653
- Access
- Water Services
- Appropriate Assessment.

These issues are considered in turn as follows.

## 7.2. **Compliance with Rural Housing Policy**

- 7.2.1. The appeal site appears to be located within “Areas under Strong Urban Influence” within Map 1 of the Sustainable Rural Housing Development Guidelines 2005 and is located in a “Strong Rural Area” as identified within Map 10.1 of the Meath County Development Plan. The Sustainable Rural Housing Guidelines outlines that Map 1 is indicative only and that further detailed analysis on the classification of rural areas would be carried out within the relevant Development Plan.
- 7.2.2. The Development Plan states that it is the policy of the Planning Authority to facilitate the housing requirements of the rural community subject to normal planning criteria, while directing urban-generated housing to zoned lands in towns and villages.
- 7.2.3. In accordance with Policy RUR DEV SP2 applications for rural generated housing will be assessed against local needs criteria, development assessment criteria and other policies and objectives of the Development Plan. These are considered in turn as follows.
- 7.2.4. Section 10.4 sets out the various criteria under which applicants can demonstrate their local housing need. In this regard, persons local to an area are considered to include *“persons who have spent substantial periods of their lives, living in rural area as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside”*.
- 7.2.5. It appears from the documentation submitted with the planning application and the response to the appeal that the applicant has strong and long-term family ties to the area, has and is residing in the family home, does not own any other property and has a letter of support from the parish priest in Bohermeen Church indicating that the applicant was born in the parish and attended the local school.
- 7.2.6. Taking the information submitted with the application and the reports from the Planning Authority into account, I consider that the applicant has satisfied the relevant provisions of the Development Plan and has demonstrated that she is an established part of the rural community with a rural generated housing need.

- 7.2.7. Section 10.5.1 of the Meath County Development Plan relates to “Development Assessment Criteria” for individual proposals for one off rural housing. This sets out criteria which the planning authority shall have regard to in assessing one off applications including local circumstances such as the degree to which the surrounding area has been developed and is tending towards becoming overdeveloped and the degree of existing development on the original landholding from which the site is taken.
- 7.2.8. Meath County Council’s first reason for refusal outlines that the proposed development when taken in conjunction with existing development in the vicinity, which is a strong rural area, would give rise to an excessive density of development within a rural area lacking certain public services and community facilities.
- 7.2.9. In the consideration of local circumstances, I note that the appeal site is located within an unzoned rural area outside of any designated rural settlement. Bohermeen, which is designated as a Graig within the rural settlement strategy, is the nearest designated centre and is c. 2km from the appeal site.
- 7.2.10. The area in the vicinity of the site is semi-rural in nature and characterised by a number of one-off rural dwellings, agricultural buildings and open agricultural land. The planning history, summarised in Section 4 of this report, demonstrates that the appeal site and larger landholding which the appeal site forms part of has experienced significant development pressure.
- 7.2.11. I note that the extent of this landholding is not identified within the application or appeal documentation. Based on a review of planning history files this landholding appears to extend to include lands and properties to the north of the cul de sac road and lands to the south and west of the appeal site.
- 7.2.12. Planning permission has previously been refused by Meath County Council for development of a dwelling on the site (P.A. Ref KA60405, KA60187) on grounds including excessive density of development within a small landholding. This reason for refusal is cited by both Meath County Council and An Bord Pleanála for applications on the larger landholding of which the appeal site forms part. A Section 47 Sterilization Agreement was a condition of two previous permissions dwellings to the north of the site (P.A. Ref. Nos. KA/40669 and KA/40653) which relate to the original landholding.

- 7.2.13. The existing level of development and planning history demonstrate that the area is under strong development pressure. On this basis I concur with Meath County Council's first reason for refusal and consider that the proposal would give rise to an excessive density of development within an unzoned and unserved rural area and would set a precedent for further development in the area.
- 7.2.14. Meath County Council's first reason for refusal furthermore states that the proposed development would contravene the policy of the Planning Authority to direct residential development to serviced areas.
- 7.2.15. The appellant has made a case that the policies in the Meath County Development Plan do not state that all residential development should be directed to serviced areas but rather that urban generated housing should be directed to areas zoned for new housing development. In this regard it is contended that the proposal would not contravene the policies of the County Development Plan.
- 7.2.16. In considering the above, I note that the policies and objectives of the Meath County Development Plan seek to provide more sustainable formats of development within the rural area through supporting the vitality of Graigs and existing local community facilities in offering attractive housing options to meet the needs of the established rural communities. Relevant policies and objectives in this regard include RD POL 4, RD POL 8, RUR DEV SO 5, CS OBJ 10 and RD OBJ 1.
- 7.2.17. The appeal site is located within an unzoned rural area removed from any town, village or graig identified within the rural settlement hierarchy. Bohermeen, which is designated as a graig, is the nearest designated centre within the settlement hierarchy and located c. 2km from the appeal site.
- 7.2.18. I consider that the development 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. I recommend that planning permission is refused on this basis.

### 7.3. ***Compliance with Meath Rural Design Guide***

- 7.3.1. The planning authority's second reason for refusal relates to the design of the proposed dwelling with particular reference to the dominant "hipped roof". It is stated that this would be at variance with rural building traditions and the rural character of



this location. On this basis it is stated that the proposal would materially contravene the Meath Rural Design Guide set out within Appendix 15 of the Meath County Development Plan 2013-2019 (as varied).

- 7.3.2. The Meath Rural Design Guide is attached as Appendix 15 of the Meath County Development Plan. Policy RD POL 9 of the plan requires that all applications comply with the Design Guide.
- 7.3.3. A detailed response to the second reason for refusal has been provided within the first party appeal. A case is made that the proposal has been designed in light of the guidance set out within the Rural Design Guide.
- 7.3.4. With specific reference to the dominant hipped roof profile in the second reason for refusal a case is made within the appeal that the Design Guidance does not indicate that hipped roof formats should be avoided but that hipped roofs should be informed by vernacular architecture traditions. On review of the design guide, I agree with the case made by the appellant that the Design Guide does not indicate a general presumption against hipped roofs.
- 7.3.5. I note that a number of examples of hipped roof styles are detailed within the Rural Design Guide. The planner's report, which informs the decision of Meath County Council to refuse planning permission for the development, refers to an extract from Section 4.1 of the Design Guide namely "Typical bungalow, hipped bungalow" which is identified as inappropriate (page 36). The appellant refers a figure on to the namely "Traditional single storey narrow plan cottage, hipped roof" which is considered appropriate (page 34).
- 7.3.6. On review of the examples cited, I consider that the footprint of the proposed residential dwelling would more closely resemble that of a typical bungalow typology wherein the hipped roof profile is considered inappropriate. Having reviewed the proposed elevations I agree with the assertion of the planning authority that the roof profile of the property is overly dominant. In this regard, I concur with the assessment of the planning authority that the proposal would be contrary to the guidance set out within the Meath Rural Design Guide.
- 7.3.7. I note the reference in the first party appeal to the presence of hipped roof designs within the area. On site inspection I consider that these are a dominant feature in the surrounding landscape as detailed within the attached photographs. Furthermore, as

stated within the Meath County Council's planners report, such developments were permitted under previous Development Plans and prior to the publication of the Rural Design Guide which was adopted as a variation to the 2007 – 2013 Meath County Development Plan.

- 7.3.8. No other significant design issues arise in the context of the appeal. I note that the planner's report includes a statement that the size, scale and massing of the building is of concern but I do not share this opinion. I consider the proposed single storey dwelling of c. 108 sq.m. to be of modest scale. The extent of the paved area to the front of the dwelling could be reconsidered to address layout points within the design guide but this could be addressed by revised proposals in the context that the principle of the proposal was considered acceptable. Appropriate separation distance is provided between the dwelling and adjoining residential properties to the north and east and no issues of overshadowing or overlooking arise.
- 7.3.9. I note that no revised proposals to address the design concerns have been submitted as part of the first party appeal for consideration of the Board in order to overcome design concerns expressed in the second reason for refusal.
- 7.3.10. Having regard to the above reason and considerations, I consider that a reason for refusal on design grounds is appropriate and concur with the assessment of the planning authority that the proposal would be contrary to the guidance set out within the Meath Rural Design Guide.
- 7.3.11. I note that the planning authority's reason for refusal states that the proposed development materially contravenes the Meath Rural Design Guide as set out within Appendix 15 of the Meath County Development Plan. This Design Guide sets out guidance designers for rural housing applications and is not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice.
- 7.3.12. I consider it sufficient to state that the proposal is contrary to the guidance set out within the Meath Rural Design Guide.
- 7.4. ***Contravention of Condition 3 attached to KA/40669 and KA/40653***
- 7.4.1. Meath County Council's 3<sup>rd</sup> reason for refusal refers to the contravention of the condition no. 3 attached to KA/40669 and KA/40653 which states:

*“Prior to the commencement of any development the owner of the landholding of which the land forms part as shown outlined in blue on the location map submitted on 23/12/05 shall have entered into a legal agreement with the Planning Authority under Section 47 of the Local Government (Planning and Development) Act 2000 providing for the sterilisation from any housing or non-agricultural development on the entire remainder of this landholding”*

- 7.4.2. These conditions relate to the larger landholding of which the subject site formed part. A case is made within the first party appeal that Meath County Council have not provided proof that legal agreements exist in accordance with Conditions 3 of the cited permissions. In the event that they do exist, it is stated that they place an unreasonable and unfair prohibition on the development on the site.
- 7.4.3. In considering the grounds of appeal, I note the guidance set out within the Sustainable Rural Housing Development Guidelines 2005 which outlines that the *“the inflexible nature of such agreements limits their usefulness except in highly exceptional circumstances”*.
- 7.4.4. On review of the planning history of the site, I note that such exceptional circumstances were deemed to relate to the landholding by both Meath County Council and An Bord Pleanala. On this basis, notwithstanding the case made within the first party appeal, it remains a fact that the sterilisation conditions were applied to a larger landholding of which the subject site forms a part and therefore relate directly to the appeal site.
- 7.4.5. The developments permitted under P.A. Ref KA/40669 and P.A. Ref KA/40653 were implemented. There is no evidence on the file to suggest that any steps were taken to remove these conditions. While I have considered the subject application on its individual merits, these conditions are a material consideration. While no details of such legal agreements have been provided by the appellant I consider that further development on the landholding would be contrary to the intent of the conditions.
- 7.4.6. Having regard to the above reasons and considerations and the fundamental concerns in relation to the overall principle of the proposal I see no material evidence to warrant a change in decision by the Board in this regard. I therefore recommend that the planning authority’s third reason for refusal is upheld.

## 7.5. Access

- 7.5.1. Access to the site is proposed via an entrance from the existing cul de sac road which runs to the north and east of the site. The road is c2.5m wide and encloses the northern and eastern site boundaries. The road currently provides access to 7 no. residential properties and a number of agricultural buildings.
- 7.5.2. At present an existing agricultural access is provided to the site. The notation on the Site Layout Plan states that the existing agricultural entrance into the site will be modified to provide sightlines for vehicles egress and access to new dwelling. An 8m width access is proposed.
- 7.5.3. Sightlines of c. 45m x 2.4m to the east and 90m x 2.4m to the west are indicated on Drawing no. WS2-1. The planner's report which informs the decision of Meath County Council to refuse planning permission for the proposed development, outlines that the visibility splays have not been taken from the near sides of the road edge as required. It is stated that this point could be addressed by means of a request for further information.
- 7.5.4. The planning application cover letter addresses the proposed access arrangements. This identifies that a sightline of 45m to the east is achievable due to the presence of a sharp bend in the road to the north east corner of the application site. It is stated that pre application consultation was undertaken with a representative from the Roads Department in December 2019 and a case was made that the 45m sightline would be adequate on the basis of the slow speed at which vehicles would be travelling on the road and the limited number of properties that the cul de sac road serves. The cover letter states that such details would be verified on site inspection further to submission of a formal application.
- 7.5.5. No report on the application was received from the Transportation Department in Meath County Council. The points raised within the planner's report are not addressed within the 1<sup>st</sup> party appeal.
- 7.5.6. Notwithstanding the above, I note the planning history of the site wherein no objection was raised in relation to the creation of an access to the site. The principle of access to the site has therefore been accepted by the planning authority as for example under PA Ref: KA60405.

- 7.5.7. I have no objection in principle to the creation of an access to serve the site having regard to the low levels of traffic using the road, the siting of the proposed entrance, and existing road conditions which includes lay by areas in the vicinity of the site.
- 7.5.8. I consider that the points raised within the planner's report relating to sightlines at the proposed entrance could be addressed by means of condition and subject to written agreement with the planning authority in the instance that a grant of permission was considered appropriate.

#### 7.6. **Water Services**

- 7.6.1. The proposed development is to be served by a new wastewater treatment system and percolation area located to the south west of the site. Water supply is proposed via a private well to the north east of the site.
- 7.6.2. The application is accompanied by a Site Characteristic and Assessment report prepared by Dr. Robert Meehan. The site is identified on relatively flat ground with a slope of <1:20. The soil type is categorised as Till derived from Lower Carboniferous limestones. Groundwater flow in the area is identified in a northern direction towards the existing stream to the north.
- 7.6.3. The submitted Site Characterisation Form states that a trial hole, with a depth of 1.7m recorded the following: c.0.14m - 0.18m of silt loam topsoil; slightly sandy silt from 0.18m to 0.46m, gravelly silt from 0.46m to 0.72m and gravelly silt with occasional cobbles from 0.8m . The water table was encountered at c1.68m and mottling was identified at 0.7m.
- 7.6.4. The evaluation outlines that the site is not suitable for a conventional septic tank which would require a depth of 1.2m unsaturated soil and subsoil but may be suitable for a mechanical aeration system and raised polishing filter. The Code of Practice outlines that in the case of secondary treatment systems a minimum of 0.9m unsaturated subsoil is required.
- 7.6.5. With regard to the percolation characteristics of the soil 3 no. percolation test holes were examined. They resulted in T values of 90 minutes/ 100mm, 62 minutes/100mm, 53.3 minutes/ 100mm. An average T value of 17 is identified.
- 7.6.6. Percolation tests were carried out at 3 no. trial holes. An average P value of 27.8 minutes / 25mm was recorded.

- 7.6.7. The results indicate that the site is suitable for the installation of a mechanical aeration system and polishing unit as proposed. Details of the proposed O' Reilly Oakstown BAF Sewerage Treatment System are provided. The proposal comprises a treatment system and raised polishing filter with an invert level of 500mm AGL. Works associated with the implementation of the system include raising of ground level in the filter area by 0.9m.
- 7.6.8. In terms of separation distances, the proposed soil polishing filter area is located c. 12m to the south of the proposed residential dwelling and down gradient of it. Eight wells are identified within 200m of the proposed soil polishing filter area within the Site Characteristics Form and this details that minimum separation distances will be met and exceeded in all instances. The proposed well on site is sited in the north eastern corner of the application site to ensure that a minimum separation distance of 45m will be achieved between the well and percolation area.
- 7.6.9. The Site Characteristics Form identifies that conventional septic tanks serve the majority of existing houses in the vicinity of the appeal site. Newer residential properties to the north, north east and north west are served by mechanical aeration systems.
- 7.6.10. No objection to the proposal is raised within the report received from the Environment Section of Meath County Council. A number of conditions are recommended including one detailing that any removal of hedgerows must occur outside of the main bird nesting season.
- 7.6.11. Notwithstanding the above, on review of the planning history for the site I note that under PA Ref KA60405 the second reason for refusal related to an excessive concentration of wastewater treatment systems on a limited landholding within an unserviced rural area.
- 7.6.12. Section 6.3 of the EPA's 'Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses' that local authorities should consider the accumulative loading from on-site domestic wastewater treatment systems, particularly in areas of high-density one-off housing.
- 7.6.13. There is a high density of one-off houses in the area which are served by septic tanks and mechanical aeration systems. No reference or assessment of the cumulative impact of wastewater systems within the area is provided within the

application in order to address this previous reason for refusal. On this basis, I do not consider that this issue has been addressed within the application and recommend that permission is refused on this basis.

7.6.14. This is a new issue and the Board may wish to seek the views of the parties.

However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

### **7.7. *Appropriate Assessment***

7.7.1. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude on the basis of the information on file, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

## **8.0 Recommendation**

8.1. I recommend that permission is refused for the proposed development for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005 and in a ‘Strong Rural Area’ according to the Meath County Development Plan 2013-2019. Taken in conjunction with existing development in the vicinity, the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment. The proposal would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would establish an undesirable precedent for future development of this type. The proposed development would be contrary to the policies and objectives of the Meath County Development Plan 2013-2019 (as varied) which seek to provide more

sustainable formats of development within the rural area through supporting the vitality of lower order centres and existing local community facilities including policies/objectives RD POL 4, RD POL 8, RUR DEV SO 5, CS OBJ 10 and RD OBJ 1. Such policies and objectives are considered to be reasonable. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The design of the proposal, particularly the dominant hipped roof, is considered to be contrary to the guidance for new dwellings in rural areas set out within the Meath Rural Design Guide, Appendix 15 of the Meath County Development Plan 2013-2019 (as varied). The proposal is considered to be at variance with the rural building traditions, would establish an undesirable future precedent, and as such would be contrary to the proper planning and sustainable development of the area.
3. The development contravenes materially conditions attached to existing permissions for development namely, condition number 3 of KA/40669 and condition no 3 of KA/40653 which provide for the sterilisation from any housing or non-agricultural development on the entire remainder of the landholding of which the appeal site forms part. The requirements of such conditions are considered reasonable having regard to the existing level of development in the area.
4. Having regard to the limited size of the original landholding from which the application site is taken and the level of existing development in the area, it is considered that the proposed development would result in an excessive concentration of waste water treatment systems in an unserved rural area. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

---

Stephanie Farrington  
Senior Planning Inspector  
15<sup>th</sup> of July 2020