



An
Bord
Pleanála

Inspector's Report

ABP-308417-20

Development	Construction of 2 storey dwelling and all associated works.
Location	Redbog, Dunshaughlin, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA200990
Applicant(s)	Raymond Argue & Michelle McKenna.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Raymond Argue & Michelle McKenna.
Observer(s)	None.
Date of Site Inspection	11 th January 2021.
Inspector	Elaine Sullivan

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.3981ha and is located within the townland of Red Bog, which is approximately 1km north-east of Dunshaughlin. It is positioned at the northern end of the local cul-de-sac known as Blake's Lane, (L-50131), and forms part of a field that is currently in agricultural use.
- 1.2. The site is part of a family landholding and is located to the rear of two dwellings that are in the ownership of the applicant's family. One of the dwellings is the original family home and the other is currently under construction but nearing completion, (PA Ref. DA14/0282). Both of these houses are accessed directly from the laneway. Access to the proposed house would be via an agricultural entrance between the existing houses to the front of the site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a detached 2 storey, 3 bedroom house of 218m², with proprietary wastewater treatment system and percolation area. The house would be a traditional two storey structure with single storey projections to the side and rear. It would be oriented to face south and would face onto the new access lane to be constructed from Blake's Lane.
- 2.2. The access lane would be positioned between the two existing houses to the front of the site and would have a gravel finish. The entrance to the house to the north of the site and currently under construction, would be re-oriented to open onto the new lane rather than Blake's Lane. Landscaping would be provided by planting trees at the entrances to the existing houses at the front of the site and on the southern side of the approach to the new house.
- 2.3. The house would be connected to the mains water and the wastewater would be treated onsite using a packaged wastewater treatment system with a sand polishing filter. The filter would be positioned in the southern corner of the site and would be approximately 39m from the new house.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the Planning Authority for the following reasons;

1. The application site is located in a rural area outside any designated settlement and in a Rural Area under Strong Urban Influence as defined in the Meath County Development Plan 2013-2019. It is the policy of the Guidelines for Sustainable Rural Housing and the Meath County Development Plan 2013-2019 to restrict housing in this area to those who are intrinsically part of the rural community or who have an occupation predominantly based in the rural community. It is considered, based on the information submitted, that the applicant has not demonstrated the need for a dwelling based on exceptional health circumstances and therefore has not established a site specific rural generated housing need at this location. The proposed development would, therefore, be contrary to the policies of the Guidelines for Sustainable Rural Housing and the Meath County Development Plan 2013-2019 and would establish an undesirable future precedent and be contrary to the proper planning and sustainable development of the area.
2. The proposed development constitutes haphazard backland development in a 'Rural Area Under Strong Urban Influence' and would be contrary to the Meath Rural House Design Guide and consequently Policy RD POL 9 of the Meath County Development Plan 2013-2019. It is considered that the proposed development would, therefore, constitute piecemeal and disorderly development which would be seriously injurious to and detrimental to the amenities of existing residential properties in the area and would set an undesirable precedent for further such development in rural areas. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Planning Officer's report, (September 2020), reflects the decision of the Planning Authority and includes the following;

- The applicant has not demonstrated local need as per Section 10.4 of the Development Plan and it has not been sufficiently demonstrated that the applicant has grounds for a dwelling in the rural area based on exceptional health circumstances.
- The siting and form of development is considered to be 'backland' and therefore should be refused.
- Details submitted with regard to ground conditions for the BAF wastewater treatment system appear to be favourable.

3.2.2. Other Technical Reports

- Water Services – No objection subject to conditions.
- Transportation – The report of the Planning Officer states that the Transportation Department required Further information. This report was not on the file and correspondence received from Meath County Council, (11th January 2021), states that there 'was no report received by the Transportation Department and the report has mistakenly stated otherwise'.

3.3. Prescribed Bodies

- Irish Water – No objection.

3.4. Third Party Observations

Letters of support were received from Thomas Byrne TD Meath East and Cllr. Damien O'Reilly.

4.0 Planning History

On the subject site;

RA/181392 – Planning permission refused by the Planning Authority on the 24th January 2019 for a detached 2 storey, 3 bed house with proprietary effluent

treatment system/ percolation area. The reasons for refusal state that the proposal would be contrary to the Meath County Development Plan 2013-2019 as the applicant did not establish a site specific rural generated housing need for a dwelling at this location and also the development would constitute haphazard, backland development, which is contrary to the Meath Rural House Design Guide.

DA14/0282 – Planning permission granted by the Planning Authority on the 25th July 2014 for the construction of a storey and a half type house, with proprietary effluent treatment system/ percolation area and a new access from the existing laneway.

In proximity to the subject site;

DA/901775 – Planning permission refused by the Planning Authority on the 19th March 2010 for a detached storey and a half type house with proprietary effluent treatment system/ percolation area and a new access from the existing laneway. The refusal reasons related to failure to demonstrate compliance with the Rural Housing Policy and on in relation to wastewater.

DA/900716 – Planning permission refused by the Planning Authority on the 7th July 2009 for a detached storey and a half type house with proprietary effluent treatment system/ percolation area and a new access from the existing laneway. The development was refused as the applicant failed to satisfactorily demonstrate that treated effluent could be discharged to current EPA standards without risk to public health or the environment.

DA/800092 - Planning permission refused by the Planning Authority on the 15th July 2008 for a detached storey and a half type house with proprietary effluent treatment system/ percolation area and a new access from the existing laneway. The development was refused as the applicant failed to satisfactorily demonstrate that treated effluent could be discharged to current EPA standards without risk to public health or the environment.

5.0 Policy Context

5.1. Meath County Development Plan 2013-2019

The subject site is located outside of the development boundary of any designated settlement and as such is located on unzoned land.

Landscape Character;

The Meath Landscape Character Assessment states that the site is located within Area 12. This area is known as the 'Tara Skryne Hills' area and is defined as a 'Hills and Upland Area' of 'Exceptional Value' and 'High Sensitivity', (Maps, 01, 02 and 03 respectively).

Rural Area Type;

The site is also identified as a Rural Area under Strong Urban Influence, (Map 10.1 – Rural Area Types).

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.

Section 10.4;

The Planning Authority will support proposals for individual dwellings on suitable sites in rural areas relating to natural resources related employment where the applicant can demonstrate local housing need based on;

- Involvement in agriculture,
- Employment in specific industry that requires the applicant to live in the rural area.

Additional local need can be considered where;

- Persons have spent substantial periods of their lives in the rural area,
- Persons originally from the area and in substandard or unacceptable housing scenarios,
- Returning emigrants with connections to the land,
- Persons with rural based employment,
- Exceptional health circumstances require housing at a specific location.

RD POL 9 - To require all applications for rural houses to comply with the 'Meath Rural House Design Guide'.

Meath Rural House Design Guide

3.1 – Site Layout – Avoid building in backlands behind existing dwellings, development of this type can compromise the private residential amenity of existing and established dwellings.

5.2. National Policy

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

The subject site is identified as an Area Under Strong Urban Influence. The key Development Plan objective for these areas should be to facilitate the housing requirements of the rural community as identified by the Planning Authority whilst also directing urban generated development to areas zoned for new housing development.

Appendix 4 – In order to prevent ribbon development, other forms of development, such as clustered development, well set back from the public road and served by an individual entrance can be used.

5.2.2. National Planning Framework - 2040;

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.

5.3. Natural Heritage Designations

No designations apply to the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows;

- There is a lack of clarity in the Planner's relating to reasons for refusal relating to local need and in particular with regard to the issue of exceptional health circumstances and local need generally.
- Extensive documentation was submitted to demonstrate local need for both applicants that detailed their time living in the area, connections to the area and also explains the period of time spent in Australia and the previous purchase of a family member's house in Cavan. The applicants are currently living in substandard accommodation on the site and to the rear of the family home.
- The family's youngest child has also been diagnosed with a condition that requires a range of continual medical supports and therapies. He will also require the input of a multi-disciplinary team, which is based 1km from the subject site. A letter from the GP and Enable Ireland has been submitted with the application. The proximity to family support will be very important for the applicants.
- Therefore, the applicants have demonstrated local housing need in accordance with the provisions of Section 10.4 of the Development Plan, and in particular with that of returning emigrants, persons from rural areas that are living in substandard or unacceptable housing scenarios and those with exceptional health circumstances.
- The second reason for refusal states that the proposal constitutes backland development. The proposed development would represent a typical farm-holding cluster arrangement which is common in rural areas and in proximity to the subject site. A traditional avenue-type access would be created from the main entrance at Blake's Lane to the site. This access would be landscaped with trees and a hedgerow and was discussed in the pre-planning consultation with the Planning Authority.

- A clustered arrangement for rural housing is in accordance with the Meath Rural House Design Guide and the Sustainable Rural Housing – Guidelines for Local Authorities.

6.2. **Planning Authority Response**

6.3. Response received on the 6th November 2020;

- No additional comments were made. The Planning Authority is satisfied that all matters outlined in the appeal have been considered in the course of it's assessment.

6.4. **Observations**

- None received.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal relate directly to the reasons for refusal which are;

- Local Housing Need
- Backland Development
- Additional Issues - Drainage & Access
- Appropriate Assessment

7.2. Local Housing Need

7.3. Both applicants are from the local area and have submitted a substantial amount of documentation to demonstrate how they comply with the requirements of Chapter 10 in terms of Local Housing Need.

7.4. In support of their case, they have submitted letters confirming their attendance at the local primary schools and from the local secondary school for one applicant. Statements from the local Credit Union and bank dating from 1998, 2003 and 2015

respectively have also been submitted as well as a letter from the Dunshaughlin Youths Football Club where one of the applicants is a Child Welfare Officer. The family's children also attend the local secondary school and creche / childcare.

- 7.5. In my view the documentation submitted shows that, apart from a seven-year period spent in Australia (from 2008-2015), the applicants have spent substantial periods of their lives in the local area, since 1983 and 1990 respectively. However, only one of the applicants, Mr. Argue, can demonstrate a direct connection to the rural area as the subject site is within the ownership of Mr. Argue's family and has been since 1990. The information states that the applicant's family have actively been involved in agriculture since 1990, and, in recent years he has taken on a more active role in managing a herd. However, I note that Mr. Argue is in full-time employment in Dublin, and as such his involvement in the farm would be on a part-time basis.
- 7.6. Details were also provided regarding the applicant's ownership of a property in Bailieborough, Co. Cavan. The applicant bought the property while living in Australia as an investment and never lived in it. Therefore, it is put forward that the previous possession of a property should not disqualify the applicant in term of local need.
- 7.7. The applicants and their family are currently living on the subject site in a two-bedroom granny flat to the rear of the original family home and state that this arrangement is substandard and detrimental to the long-term welfare of the family. Additional details were also provided with regard to the medical requirements of the family. The youngest child has been diagnosed with Down's Syndrome and will require additional long-term medical attention and supports. Letters were submitted from the family's GP and Enable Ireland to confirm this. The applicant's state that the proximity to family members will provide the much-needed support to help with the additional care required for their son.
- 7.8. Having reviewed the documentation submitted, I am of the opinion that, whilst the information submitted is extensive, it does not demonstrate an explicit need to reside in the specific rural location for either economic or social reasons. Mr. Argue is in full time employment in Dublin and as such has no direct economic need to reside in the rural location. It is put forward that the applicants would benefit from additional family support in order to address the additional medical needs of their youngest child. However, the application also states that family members also reside in

Dunshaughlin, which is approximately 1.5km from the site, and could also provide additional support.

7.9. Whilst both applicants can demonstrate connections to the area, the information submitted does not demonstrate an intrinsic need for housing in the rural area, which is identified as an area under 'strong urban pressure' and is approximately 1.5km from the town of Dunshaughlin. The applicants do not work in the rural area and as such do not demonstrate an economic need to live there. In my opinion, the additional medical and social requirements of the family do not explicitly require them to reside in the rural area.

7.10. It is evident that the area rural area surrounding Dunshaughlin has been under development pressure for one-off rural housing in recent years. The approach road to the subject site, and the area around it, has been substantially developed with one-off houses. The over-arching national and local planning policy is to prevent the proliferation of one-off housing in rural area under strong urban pressure. In my view, the applicants have not demonstrated an intrinsic local need to reside in the rural area for either economic or social reasons.

7.11. Backland Development

The proposed development would be located to the rear of the existing family landholding and would be accessed by way of a shared laneway positioned between the existing houses to the front of the site. This entrance currently exists and allows for access to the agricultural sheds to the rear of the site and to the field beyond.

7.12. To the north of the site, the applicant's sister is currently constructing a house, (Ref. DA14/0282). The entrance permitted for this dwelling opened onto the existing cul-de-sac. Under the subject proposal this entrance would be moved further south to open onto the new access lane rather than open directly onto the existing lane.

7.13. The grounds of appeal argue that the positioning of the new house is not backland development and instead forms a typical farm-holding cluster arrangement. Reference is also made to the Meath Rural House Design Guide, Section 3.1, which stipulates that two houses clustered together on a shared site with a shared entrance is acceptable.

7.14. In my opinion the proposed layout constitutes backland development and cannot be considered as a cluster development. The new dwelling would be positioned directly behind the original family home and would not be clearly visible from the main road. In order to access the stie, one must drive through two sites to get to it. Whilst the dwellings are located on the same landholding, they are clearly situated on their own separate sites within that landholding and each one would have its own entrance onto the proposed shared lane. In my opinion this arrangement is not in keeping with the intention of Section 3.1 of the Rural House Design Guide, which defines the preferred cluster arrangement as 'two houses clustered together on the same site with shared entrance and driveway'.

7.15. Whilst the proposed dwelling would not result in any undue impact on existing residential amenity of the existing dwellings, it does represent an unwelcome design approach that would allow for a gradual encroachment of random rural development in the area which would militate against the preservation of the rural environment. It could also result in a public health hazard by virtue of a proliferation of individual waste-water treatment systems in close proximity to each other.

7.16. Additional Issues – Drainage & Access

7.17. The proposed dwelling would be connected to the existing mains water supply. In order to deal with the wastewater it is proposed to install a BAF Waste Water Treatment unit and percolation system comprising a Sand Polishing Filter. Only foul and grey water would enter the Waste Water Treatment System and all storm water would be diverted to separate soakaways.

7.18. Having assessed the details of the site characterisation tests against the EPA Code of Practice, Wastewater Treatment Systems for Single Houses (2010), I am satisfied that the that the results are in accordance with EPA guidance and that the system proposed will be adequate. I note that the Planning Authority had no objection to the wastewater treatment system proposed and that it broadly meets their requirements with regard to the orderly collection, treatment and disposal of surface water. However, the Water Services Section did have some concerns regarding the submitted infiltration rate and requested additional testing and engagement with the section prior to the commencement of development. As noted above, I would have

some concerns regarding the cumulative impact of individual on-site waste water treatment systems in the area and the potential for a public health hazard.

7.19. Access to the site would be provided through a proposed right of way over an existing agricultural track between two houses. It is proposed to formalise the access by installing a laneway that would be finished with gravel. Landscaping would also be provided along the laneway. A report from the Transportation Section of the Planning Authority was not prepared for the proposal. As the opening onto the site is already in place, and, given the positioning of the site towards the end of the lane, I do not foresee any issues in terms of traffic hazard arising from the proposal.

7.20. Appropriate Assessment

7.21. Having regard to the nature and scale of the proposed development and the separation distance to the nearest 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 planning permission be refused for the following reasons;

9.0 Reasons and Considerations

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, wherein it is the policy to distinguish between urban-generated and rural-generated housing need. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to 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, having regard to the viability of smaller towns and rural settlements. Having

regard to the documentation submitted with the planning application and appeal, it is considered that the applicant does not come within the scope of the housing needs criteria as set out in Section 10.4 of the Meath County Development Plan 2013-2019 and does not have a demonstrable economic, social or exceptional medical need for a house at this rural area, having regard to the proximity of the site to Dunshaughlin and the viability of this town. The proposed development would, therefore, be contrary to Ministerial Guidelines and to over-arching national policy and would be contrary to the proper planning and sustainable development of the area.

Elaine Sullivan
Planning Inspector

25th January 2021