



An
Bord
Pleanála

Inspector's Report

ABP-309214-21

Development	Dormer dwelling house with basement, dormer type garage with link to dwelling house, septic tank and percolation area, and all associated site works.
Location	Kilcarrig, Bagenalstown, Co. Carlow.
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	20209
Applicant(s)	Eoin and Karen Rea
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	David McDonald
Observer(s)	None
Date of Site Inspection	20 th April 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. This site with a stated area of 0.28 hectares is located on the rural outskirts of Bagnelstown, Co. Carlow in the townland of Kilcarrig c. 1.2km east of the town centre. The site is located within the 50km per hour speed limit zone of the town. The site is served via a private laneway which also serves a farm dwelling and farm buildings and adjoins the R724.
- 1.2. Kilcarrig quarry is located in the field to the south of the site. A large number of one off houses are located on lands zoned as 'Existing Residential/Infill' to the west of the site.

2.0 Proposed Development

- 2.1. Permission is sought for a dwelling with a stated area of 377m² and a garage with a stated area of 82m². External finishes included blue/black slates, and a combination of natural stone and sand cement walls. The site is served by a mains water supply and a septic tank and percolation system is proposed. A Stage 1 Appropriate Assessment Screening Report Accompanied the application.
- 2.2. Further information was submitted to the Planning Authority dated the 25th of November 2020 which provided for a revised house and garage design.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission granted subject to 17 No. conditions. All conditions are of a standard nature for a development of the type proposed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report considered that the applicant had submitted sufficient information to demonstrate that he was intrinsically linked with the area and complies with the Rural Housing Policy. Further Information was sought in relation to a

number of items including the requirement for a redesign of the dwelling and an indication of whether or not the landowner would be willing to enter into a Section 47 Agreement preventing the use of the land to the east from further residential development.

The second report dated the 15th of December 2020 stated that *'having regard to the location of the site within the development boundary and within the speed limit of Bagenalstown, the location of the development is acceptable.'* It was considered that the revised design was acceptable.

3.2.2. Other Technical Reports

Water Services: Advise that applicant's need to apply to Irish Water for a water connection.

Fire Officer: No objection subject to conditions.

Area Office: No objection subject to conditions.

Environment: No objection subject to conditions:

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection subject to conditions.

3.4. Third Party Observations

3.4.1. Two third party observations were submitted to the Planning Authority. The issues raised are similar to the third party appeal to the Board.

4.0 Planning History

4.1.1. None relevant.

5.0 Policy Context

5.1. The National Planning Framework provides certain objectives in relation to spatial planning policy. National Policy Objective 19 is 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;
- 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.

5.2. The **Sustainable Rural Housing Guidelines for Planning Authorities** (DOEHLG 2005) advise that planning authorities should incorporate policies in relation to rural housing in their development plans. A distinction should be made between rural and urban generated housing needs. Planning authorities should have regard to the National Spatial Strategy (NSS) particularly its designation of rural areas as being under strong urban pressure for housing arising from proximity to cities and bigger towns, structurally strong areas with stable population levels, structurally weak areas demonstrating population decline and areas with clustered settlement patterns especially in western counties.

5.3. Development Plan

5.3.1. Carlow County Development Plan 2015 – 2021

The Carlow County Development Plan 2015-2021 is the relevant Development Plan for the area. The County Development Plan sets out a core strategy in Table 2.4 and

maps the settlement strategy on Map 2.3. Carlow is the designated county town. Tullow and Muinebheag/ Bagnelstown are district towns. The objective is to development the district towns to be, as far as practical, self-sufficient incorporating employment activities, sufficient retail services and social and community facilities.

The core strategy sets as objectives:

- Allow the sustainable development of rural areas of the county.
- Allow the sustainable growth of the District Towns, smaller settlements and rural areas within the County.
- Avoid the overprovision of zoned lands.
- Avoid the potential of unsustainable leapfrogging of undeveloped lands'
- Avoid the pressure for excessive development in un-serviced areas.
- Ensure that adequate land is zoned to more than meet 1.5 times the population targets set in the RPG's.

In accordance with the County Development Plan Map 2.3 'Core Strategy Map' the subject site is designated 'Area Under Urban Influence'.

The County Development Plan provides guidance in relation to the following categories that would be eligible for a rural house.

- Persons who are an intrinsic part of the rural community
- Persons wishing to downsize for his/her own use and not as speculation in the rural area in which they currently reside
- Persons Residing in Bordering Counties
- Persons working full time or part time in rural areas
- Persons who are fulltime farmers or employed fulltime in other rural based activity such as horticulture, forestry, bloodstock, farming, agri-tourism or other rural based activity
- Social/Community, Medical and Personal Circumstances

Section 2.7.3 – Design Siting Requirements

Chapter 11 of the Plan refers to – Design and Development Standards

Section 11.3 refers to Residential Development Standards

Muine Bheag/Royal Oak LAP 2017-2023

The boundary of this plan is located on the other side of the lane at this location. The row of existing residences fronting onto the R724 the other side of the lane are zoned as 'Existing Residential/Infill' whilst the laneway and the land directly behind the existing houses are zoned as 'New Residential.'

The current site is located on unzoned lands outside of the development boundary.

5.4. Natural Heritage Designations

- 5.4.1. The River Barrow and River Nore Special Area of Conservation Site Code 002162 is located c. 1.1km to the west of the site. Blackstairs Mountain Special Area of Conservation Site Code 000770 is located 10.4km south-west of the site.

5.5. EIA Screening

- 5.5.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Kilcarrig Quarries is operating its sand, gravel, block making, and precast business in the next field and this application could seriously affect its operation.
- Concern regarding traffic impacts.
- Concern regarding surface water drainage.

- Concern regarding possibility of further development on the laneway.

6.2. Planning Authority Response

The Planning Authority Response can be summarised as follows:

- It is considered that the proposed site and the nature of the proposed development is a sufficient distance from Kilcarrig Quarries such that it would not impede on the nature of the business.
- The site is situated within the speed limit of Muine Beag (Bagenalstown) and it is considered that it will not negatively impact on traffic or traffic congestion in the area.
- It is considered that the proposed development will not impact on the surface water drainage in the area. The proposed development was assessed by the Council's Environment Department with no objection subject to condition.
- The applicant clarified in the Further Information Response that the land to the east was in different ownership. Having regard to this matter, taken together with the location of the site within the speed limit zone of the settlement, the proposed site selection is considered to be acceptable.

6.3. Observations

- None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and in the observations submitted. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Rural Housing Policy
- Other Issues
- Appropriate Assessment

7.2. Rural Housing Policy

- 7.2.1. The application site is located in an area designated as a 'stronger rural area' as illustrated on the NSS Rural Area Types map attached to the Sustainable Rural Housing Guidelines for Planning Authorities (DOEHLG 2005). The guidelines describe these areas as having a well-developed town and village structure supported by a strong agricultural base.
- 7.2.2. The Carlow County Development Plan 2015-2021 is the relevant county development plan for the area. The County Development Plan sets out a settlement hierarchy in table 2.4 and maps the settlement hierarchy on map 2.3. Carlow is designated the county town, Tullow and Muinebheag/Bagenelstown are district towns. Borris, Hacketstown, Rathvilly, Ballon, Leighlinbridge and Carrigduff are smaller towns and there are 17 villages. The Core Strategy Map 2.3 identifies that the site is located in an 'Area under Urban Influence'. The core strategy (paragraph 2.4.7) sets as objectives:
- Allow the sustainable development of rural areas of the county.
 - Allow the sustainable growth of the District Towns, smaller settlements and rural areas within the County.
 - Avoid the overprovision of zoned lands.
 - Avoid the potential of unsustainable leapfrogging of undeveloped lands.
 - Avoid the pressure for excessive development in un-serviced areas.
 - Ensure that adequate land is zoned to more than meet 1.5 times the population targets set in the RPG's.
- 7.2.3. The application site is not within any of the settlements designated in the County Development plan. Whilst I note that the site is within the speed limits of Bagenalstown, I do not fully concur with the planner's comment in the report dated the 15th of December 2020 which states that 'Having regard to the location of the site within the development boundary and within the speed limit of Bagenalstown, the location of the proposed development is acceptable.' In this regard, I have examined the Muine Bheag/Royal Oak Local Area Plan 2017-2023 which indicates that the site is located on unzoned land just outside of the development boundary of the town. I note that the existing row of houses between the town and the site the opposite side

of the land are located on lands zoned as 'Existing Residential/ Infill' and that the lands including the lane and that directly behind the lands zoned as 'Existing Residential' are zoned as 'New Residential.'

- 7.2.4. I consider that the lane way represents a natural development plan boundary and the development of one off housing on the opposite site of the laneway would create pressure for further development in this area. I note that no development has taken place on the lands zoned as 'New Residential.'
- 7.2.5. The relevant Development Plan Policy for this unzoned land is Sections 2.7.1.3 – One off- Housing in the Countryside and Section 2.7.1.4 – Persons who are an intrinsic part of the rural community. I note that the land is family owned land and as such I consider that the applicants comply with the first example of persons complying with the policy- Immediate family member of an existing householder/landowner who is intrinsically linked to the area to include son, daughter, mother father, sister, brother, wishing to build a permanent home for their own use on family lands.
- 7.3. Information submitted with the application indicates that the applicant has a number of business interests in Bagenalstown including Rea's Department Stores and Rea Communication Ltd. (Telecommunications phone shop). Map PL-1011 submitted with the application includes the location of these business premises in the town of Bagenalstown together with the location of a number of relatives in the town and his father's home outside the town.
- 7.4. Having reviewed the documentation submitted, I consider that the applicant has adequately demonstrated that he is linked to the rural area and complies with the rural housing needs criteria set out under Section 2.7.1.3 of the Development Plan.
- 7.5. Notwithstanding the above, I consider that the proposed dwelling would comprise an urban generated residential development outside of a designated settlement in the County's settlement hierarchy and could lead to the unsustainable development of undeveloped lands. I am not satisfied that the applicant's housing needs could not be satisfactorily met in an established town, village or urban settlement area. Given that the proposal would comprise an urban generated rural house and that the applicant does not demonstrate an economic or social need to live in this rural area, it is my view that the proposed development would be contrary to the Sustainable

Rural Housing Guidelines for Planning Authorities (2005) and National Policy Objective 19 of the National Planning Framework.

7.6. The proposed development, in the absence of any identified locally based need for the house, 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. For this reason, I recommend that the proposed development be refused permission.

7.7. **Other Issues**

7.8. I note that the third party appeal to the Board raised a number of concerns which can be summarised as follows:

- Concern that the development of these lands could seriously impact on the existing Kilcarrig Quarry which is a gravel, block making and precast concrete business in the next field to the site.
- Traffic is a major problem at this location so much to the effect that a speed reduction had to be introduced.
- Impact on surface water drainage.
- Potential of further development off the narrow laneway.

7.8.1. In terms of the proximity to Kilcarrig Quarries, the applicant's have noted in their response to the Further Information request that they are well aware of the proximity to the quarry at this location. As such, whilst the owner of the quarry may be concerned about future complaints in relation to his existing operation, I consider that the applicant's have given adequate consideration to this matter.

7.8.2. In terms of traffic safety, having regard to the location of the proposed development in a 50km/h speed limit zone and the limited scale of development proposed of one dwelling served from an existing laneway, I am satisfied that the proposed development would not unduly impact on traffic safety in the area.

7.8.3. In relation to the concern raised regarding surface water drainage, I note that the site was inspected by the Environment Section and there was no objection subject to condition in relation to the appropriate surface water management arrangements for

the site. I am satisfied that Condition No. 8 of the decision by the Planning Authority is adequate in this regard.

7.8.4. I would share the concerns raised that the granting of permission in this instance could lead to the potential of further development off the narrow laneway. This type of development would be unsustainable when zoned lands are available in the immediate vicinity of the site. I note that the Planning Authority raised this issue in item 1 of the Further Information Request dated the 20th of August 2020 and requested the applicants to indicate whether the landowner was willing to enter into a Section 47 Agreement preventing the use of the land to the east and preventing the creation of ribbon development at this location. The response from the applicant's in relation to this matter indicated that the lands to the east were in a different ownership and outside the control of the applicants.

7.9. **Appropriate Assessment**

7.10. The appeal site is not in or immediately adjacent to any Natura 2000 site, so the proposed development would not have any direct effect on any Natura 2000 site. The nearest European site is the River Barrow and Nore SAC 002162 1.1km west of the site. Blackstairs Mountain SAC 000770 is located 10.4km south-west of the site. The conservation objectives for the River Barrow and Nore SAC 002162 are to maintain the favourable conservation condition of the qualifying habitats and species in the Natura 2000 site. A screening report submitted with the application identifies that the River Barrow and Nore SAC is located 3km upstream of the designated habitats and species of this SAC. There are no hydrological connections between the application site and the Blackstairs Mountain SAC 000770 and as such impacts are not likely to occur.

7.11. The qualifying interests of the River Barrow and Nore SAC are as follows:

- Desmoulin's whorl snail
- Freshwater pearl mussel
- Killarney fern
- Reefs

- Nore freshwater pearl mussel
- Twaite shad
- Sea lamprey
- Atlantic salt meadows
- Estuaries
- European dry heaths
- Mediterranean salt meadows
- Mudflats and sandflats not covered by seawater at low tide
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Petrifying Springs with tufa formation
- Salicornia and other annuals colonizing mud and sand
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- River lamprey
- Brook lamprey
- Salmon
- Otter
- White-clawed crayfish

7.12. The screening report submitted with the application notes that having regard to the small scale of the proposed development and the distance from the River Barrow and Nore SAC, there will be no impacts on any designated site. It notes that there will be no run-off from the site directly to the SAC or any watercourse leading to it either during construction or operation of the proposed development. It notes that the

watercourse that is mapped at the front of the site is piped and will not receive any run-off from the site during construction or operational works.

- 7.13. Having regard to the nature of the proposed development, the location of the application site at the edge of a built-up urban area where a public water supply is available, to the nature of the likely emissions from the proposed development, the separation distance of the European sites from the application site, the nature of the qualifying interests and conservation objectives for the European sites assessed it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the River Barrow and River Nore SAC Site Code 0002162 or the Blackstairs Mountain SAC Site Code 000770 or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend refusal for the following reason:

9.0 Reasons and Considerations

1. The site of the proposed development is located in an 'Area under Urban Influence', as set out in as set out in Map 2.3 of the current Carlow County Development Plan and in accordance with Section 3.2 of 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 policy to distinguish between urban-generated and rural-generated housing need. Furthermore, having regard to National Policy Objective 19 of the National Planning Framework, issued by the Department of Housing, Planning and Local Government in February 2018, which, for rural areas under urban influence, seeks 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, it is considered that the applicant does not come within the scope of the housing need criteria, as set out in National

Policy Objective 19. The proposed development, in the absence of any identified locally based need for the house, 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.

Emer Doyle
Planning Inspector

06 May 2021