



An
Bord
Pleanála

The
propsoe

Inspector's Report ABP-310705-21

Development	To construct a single storey dwelling, detached garage, new entrance, waste water treatment system and percolation area, bored well and all associated site works.
Location	Kilcrow , Athy , Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	201429
Applicant(s)	Aine Perse and Mark Dunne
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Joseph Whelan.
Observer(s)	None
Date of Site Inspection	27 th of October 2021.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is 0.362Ha and is located in rural area west of Athy town, Co. Kildare. The site is accessed off a cul-de-sac serving a farmyard, and there are 3No. one off dwellings adjacent to the site.
- 1.2. The site is flanked by one off houses, which are laid out in a typical linear fashion with similar setbacks and site configurations.
- 1.3. The western site boundary is a mature hedge, the eastern is a timber post and rail fence. The rear boundary is an open field. The front (northern) roadside boundary fence is a post and wire fence.
- 1.4. The land is level. Access off the cul de sac is at a junction onto Rockfield Road immediately east of the site. The proposed development is a single storey dwelling, detached dwelling, new entrance, wastewater treatment system and percolation area, bored well and associated site works.

2.0 Proposed Development

- 2.1. The proposed development is a single storey dwelling, 223sq.m. floor area. It is a four-bedroom house, laid out around a central outdoor courtyard. There is a detached garage, a private borehole, and a private sewage treatment system.
- 2.2. Access is from the existing field access off a local cul-de-sac serving two farmyards and a number of one off houses.
- 2.3. A part of the further information, the detached garage was relocated to the rear of the site.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council granted the proposed dwelling subject to 21No. conditions and the most notable area summarised as follows:

2. Standard Occupancy Condition;

3(a) external finishes prescribed and 3(b) recessed entrance to consist of painted wrought iron railings and gate no higher than 1.5metres;

Conditions 7-11 relate to the effluent treatment plant;

17 (a) recessed entrance, (b) surface water, (c) Surface water, (d) Sightlines € roadside verge;

21. Development Contribution Scheme.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- **Local Need:** Further information was issued in respect of compliance with Policy RH2. Mark Dunne lives in Athy Town and went to school in the town. Aine Perse went to Churchtown N.S and is living in Castlemitchell. She went to secondary school in Athy. It was deemed acceptable the applicants compiled with Policy RH2 based on the school information.
- **Site Layout:** The revised proposal to setback the detached garage to the rear of the site was considered to be acceptable.

3.2.2. *Other Technical Reports*

Water Services: No objection

Environment Section: No objections

Transportation Section: Report with conditions attached.

3.3. Prescribed Bodies

Irish Water: No objections.

3.4. Third Party Observations

A submission from a local Councillor was received supporting the applicants.

A third party objection to the proposed development was received stating the following concerns:-

- Poor siting;

- Indicated sightlines are not achievable;
- Road width is inadequate;
- Applicants have not demonstrated strong links to the area;
- Ribbon development;
- High level of wastewater treatment plants.

4.0 Planning History

4.1 Planning Reference: 07/704

Planning application for dormer bungalow on the subject site withdrawn.

4.2 Planning Reference :07/2445

In July 2008, Martin Whelan was granted planning permission for a dwelling on the subject site. The permission was not carried out, and the site has remained undeveloped.

4.3 Applicant's Planning History

The applicants have been refused planning permission twice for a dwelling house in Grangemellon during 2020, under planning references 20/136 and 20/792, relating to ribbon development and non-compliance with local need. It was considered the applicants did not comply with the Local Need Criteria as outlined in Table 4.3 of the Kildare County Development Plan 2017-2023. The proposed development would materially contravene Section 4.12.7 of the Kildare County Development Plan 2017-2023.

Under both applications Aine Perse was refused for the following reasons:

1. Policy RH 12 of the Kildare Development Plan 2017-2023 aims to discourage ribbon development (defined as 5 houses or more along 250metres of road frontage. Having regard to the planning history of the landholding, the location of the subject site and the development pressures in the area, it is considered that the proposed development would coalesce an existing pattern of ribbon development in the area, would contravene policy RH12 of the Kildare County

Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

2. Policy RH2 of the County Development Plan 2017-2023 aims to focus the provision of one-off housing in the rural countryside to the category of 'local need' subject to compliance with normal planning criteria including siting and design considerations. Based on the information submitted with the application, it is considered the applicant has not demonstrated compliance with the local needs criteria as outlined in Table 4.3 of the Kildare County Development Plan 2017-2023. The proposed development would contravene materially Section. 4.12.7 of the Kildare County Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National Policy

5.1.1 *National Planning Framework – Project Ireland 2040, DoHP&LG 2018*

The National Planning Framework – Project Ireland 2040 is a high level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to 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.

5.1.2 *Sustainable Rural Housing Development Guidelines 2005*

The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.2. **Development Plan**

The relevant Chapter in the **Kildare County Development Plan 2017-2023** is Chapter 4 Housing. The subject site is located in **Rural Housing Policy Zone 2** as per Map 4.4. Rural Housing Policy Zone 2: South west of the county – are areas under pressure for development but with lower concentrations of population and lower levels of environmental sensitivity.

According to Table 4.3(b) a member of the rural community must comply with one of three criteria in Rural Housing Policy Zone 2.

Rural Housing Policy Zone 2 (i) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 8km of the original family home may be considered.

(ii) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 8km of the original family home.

(iii) Persons who can satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in the rural area where they have existing links to that rural area and that the business will contribute to and enhance the rural community and that the nature of such enterprise is location dependent and intrinsically linked to a rural location.

RH 2 Manage the development of one off housing in conjunction with the rural housing policy zone map (Map 4.4) and accompanying Schedules of Category of Applicant and Local Need Criteria set out in Table 4.3. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.

5.3. **Natural Heritage Designations**

The River Barrow/ Nore SAC is 3.5km to the east of the site.

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development, which is for a single house, and the nature of the receiving environment, which is rural, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The third-party appellant, Mr. Joseph Whelan, lives in the contiguous dwelling to the west of the subject site. The following is a summary of the concerns:

- **Site Layout:** The proposed garage is located on the western site boundary and is cause for concern.
- **Sightlines:** There is 150metre of a sightline required within the speed limit of 80km/hr. The road fronting the site is a Local Secondary Road L8081. . The

Further Information response states the sightline is 51metre to the west and 60metres to the east which are both clearly below the required standards. The applicant cannot achieve safe sightlines. The applicant is relying on seeing through the fence to the east. Condition No. 17 (d) requires the site shall be strictly in accordance with Drawing PL-002-20 which indicates 90metres in both directions. The applicant would need the permission of the adjoining owners to provide such sightlines, and this cannot be complied with and should be refused.

- **Existing Road Inadequacy** : The width of the road carriageway is 3.3metres, which is wholly inadequate for existing road users. The proposal will generate additional traffic movements and will represent a traffic hazard. In addition the junction of the LS8081 with the LP4006 is dangerous.
- **Local Needs Criteria**: The applicants are relying on the location of Aine Perse's family home in Castlemitchell, some 4.2km from the site as a means to satisfying the local needs criteria. The applicants have not demonstrated a strong enough link to the area to satisfy local needs criteria nor have they demonstrated any functional need to reside in the Kilcrow area. The development contravenes policy RH2 of the County Development Plan 2017-2023 and planning should be refused.
- **Ribbon Development**: The proposed development constitutes ribbon development.
- **Proliferation of Wastewater Treatment Systems**: The proposal is for another borehole and wastewater treatment system in the area, where each dwelling is served by wells and wastewater treatment systems, constituting a high concentration of systems in the vicinity.

6.2. Applicant Response

- The garage location was repositioned to the rear part of the site as part of the further information and is adjacent to Mr. Whelan's own garage. He does not state what his concerns are. Therefore, there are no further changes to the garage required.

- The Roads, Transportation and Public Safety Department of the Council deemed the entrance to be acceptable.
- The applicant has provided her connections to the local area and compliance with Rural Housing Policy RH2.
- The site is an infill site and is only the 4th dwelling to be accessed along the road for over a kilometre. This is not ribbon development and it will not in any way create an oversaturation of treatment systems.

6.3. Planning Authority Response

The main comments from the planning authority are outlined in the Roads Report dated 04/06/21. In addition, the planning authority submits the following:

- The lines of sight 90metres at the entrance to the site for both directions were highlighted in the Sightlines Drawing Reference PL-002-AP-20. In the further information response by the applicant lines of 51metre to the west of the site entrance and 60metres to the east of the site entrance were highlighted on the Site Plan Drawing Reference PL-003-AP-20 dated March 2021 prepared by PDS Associates. The applicant also stated that these sightlines should be accepted by the planning authority in view of the low level of traffic using this cul-de-sac. The proposed lines of sight of 51m and 60m at the site entrance, would result in design speeds of between 42 and 46 km per hour, and by analysis it is considered there are low volumes of traffic on the cul-de-sac.
- The width of the cul de sac is 3.3metres along certain sections of the cul de sac. The normal minimum width for a road with two-way traffic is 5metres. It is accepted the width of 3.3metres is tight for two-way traffic but would accept this as a pinch point considering the low volumes of traffic on this cul-de-sac where motorists would give way to traffic on the cul-de-sac and traffic speeds would be low in view of the narrow width.
- Junction LS8081 and LP4006is stated to be dangerous in the appeal submission, but this is a matter for Kildare Co. Co. to deal with and from our analysis the proposed development should have minimum traffic impact as traffic turning movements are relatively low at the junction with the cul-de-sac.

7.0 Assessment

Having examined the appeal file, carried out a site inspection, and having regard to the relevant local, regional and national planning policies and guidance, I consider the main issues of the appeal are as follows:

- Compliance with Relevant Planning Policy
- Site Design and Layout
- Planning History
- Services
- Roads
- Appropriate Assessment

7.1 **Compliance with Relevant Planning Policy**

7.1.1 According to the current development plan, the subject site is located within Rural Area Zone 2 of Map 4.4, which implies an applicant must comply with the Rural Housing Policy set out under Section 4.12.7 of the County Development Plan. Area 2 is under pressure for development but with lower concentrations of population and lower levels of environmental sensitivity compared to Rural Area 1. Following the request for further information both applicants submitted details of their primary and secondary school addresses and time of attendance. These details were noted and the planning authority deemed the applicants complied with Policy RH2 of the development plan. I wish to examine this issue in greater detail.

7.1.2 One of the applicants must satisfy the following criteria:-

(i) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 8km of the original family home may be considered. (ii) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home

in the rural area on the family landholding or on a site within 8km of the original family home.

(iii) Persons who can satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in the rural area where they have existing links to that rural area and that the business will contribute to and enhance the rural community and that the nature of such enterprise is location dependent and intrinsically linked to a rural location.

Ms Aine Perse's family home is in Castlemitchell, 4.2km from the subject site. It is noted from the further information submitted Ms Perse went to primary school in Castlemitchell. I fail to see how school attendance alone warrants compliance with Rural Housing Policy requirements for Area 2. There is a map included with the planning applications which details the applicant's current places of residence and their immediate family's residence submitted with planning application. There are no details of their current employment and a functional/ economic/ social justification to live in this rural area. I consider this to be a serious omission from the planning application documentation. Having regard to the previous two refusals relating to applicants non-compliance with local needs policy in 2020, I consider the applicant has failed to comply with national and local planning policy in this regard.

7.1.3 In the National Planning Framework issued by the Department of Housing, Planning and Local Government (February 2018) Objective No. 19, in areas under urban influence, single houses in the countryside will only be considered if there has been a demonstrable economic and social need to live in such areas. As stated, based on the information on the planning application and appeal file, it is my opinion, the local need criteria has not been established by either applicant. The proposal should be refused on this basis.

7.2 Site Design and Layout

7.2.1 The proposed dwelling is single storey, shaped around a courtyard. It is a four-bedroom dwelling, with an open plan living area. The dwelling has the legibility of three separate blocks when viewed from the road creating a contemporary vernacular style. The front and rear building lines are in line the adjoining dwellings. In design and layout terms the proposed dwelling will make a positive design contribution on the flat vacant site. The sewage treatment plant is to be positioned

along the rear site boundary. The access to the site is located at the eastern extremity of the roadside boundary.

7.2.2 As part of the further information following a third-party objection, the proposed detached garage was relocated to the rear of the site. In my opinion, the garage is more appropriately positioned in the original position i.e. in line with the front building line of the proposed dwelling. Having regard to the mature hedge along the western site boundary and the separation distance of 13metres between the rear garage building line and the front building line of the neighbouring dwelling to the west, I do not foresee any injury to residential amenities as result of the garage being positioned in the original position on the site. Therefore, if the Board are favourably disposed towards the development, I recommend a condition be attached to that affect.

7.3 **Planning History**

7.3.1 In July 2008, under planning reference **07/2445**, Martin Whelan was granted planning permission for a dwelling on the subject site. The permission was not executed. There are new National Planning Guidelines in place since the previous decision to grant planning permission for a dwelling on the site in 2007, and a new Kildare County Development Plan was adopted. Planning policy has evolved considerably since the parent permission was granted on the site in 2007.

7.3.2 The current applicants have been refused planning permission twice for a dwelling house in Grangemellon in 2020 under planning references 20/136 and 20/792, relating to ribbon development and non-compliance with local needs policy. It was considered the applicants did not comply with the Local Need Criteria as outlined in Table 4.3 of the Kildare County Development Plan 2017-2023. It was further stated, the previous proposals would materially contravene Section 4.12.7 of the Kildare County Development Plan 2017-2023. I cannot establish from the planning report on file how the planning authority now consider the applicants comply with the same local needs policy within such a short time frame. As outlined above, I do not consider the applicants do meet with the local and national planning policy relating to new housing in rural areas.

7.5 **Services**

The Site Characteristic Form states the proposed dwelling will connect to a private water supply. There will be a new wastewater treatment system for wastewater

located to the rear of the site. The Environmental Health Officer had no objection to the proposed development.

7.6 Roads

The Transportation Department report dated 11th of January 2021 had no objection to the proposed development. There were 7No. standard road conditions recommended relating to the recessed entrance, surface water runoff, sightlines and roadside boundary. On appeal the planning authority has responded in detail on the roads issue because the third-party appeal was concerned about the lack of sightlines and the narrow width of the road fronting the site and the traffic generated by the proposed development.

It has been indicated on the submission drawings sent in by way of further information that a sightline of 51metres to the west of the entrance and 60metres to the east are achievable without the removal or setback of adjoining third party properties. In a 80kmph speed limit area, the sightlines should be 150metres, however if typical traffic speeds are lower, then a reduced sightline would be acceptable. In this regard, the width of the cul de sac fronting the site is 3.3-3.5m. The normal width of a road for two-way traffic is 5metres. The planning authority accepts the width of the road is narrow however considers this location is a pinch point taking account of the low volumes of traffic on the cul de sac, speeds will be low due to the narrow road width.

I examined the sightlines at the proposed entrance, and I would consider they are adequate in both directions to safely access the development, given this is a cul de sac with low volumes of traffic, as there are only 5-6 dwellings accessed off the entire road.

7.7 Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 the planning authority's decision to grant planning permission for the proposed development be overturned by the Board.

9.0 Reasons and Considerations

Having regard to the location of the site within a rural area under urban influence, and to National Policy Objective 19 of the National Planning Framework (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 applicants have not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19. The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Caryn Coogan
Planning Inspector

18th of January 2021