



An  
Bord  
Pleanála

## Inspector's Report ABP-311786-22

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|-------------------------------------|---|
| <b>Development</b>                  | Construction of bungalow.                 |
| <b>Location</b>                     | Fleenstown Great, Ashbourne, Co.<br>Meath |
| <b>Planning Authority</b>           | Meath County Council                      |
| <b>Planning Authority Reg. Ref.</b> | 211543                                    |
| <b>Applicant(s)</b>                 | Darren McDermott                          |
| <b>Type of Application</b>          | Permission                                |
| <b>Planning Authority Decision</b>  | Refuse                                    |
| <b>Type of Appeal</b>               | First Party                               |
| <b>Appellant(s)</b>                 | Darren McDermott                          |
| <b>Date of Site Inspection</b>      | 18 <sup>th</sup> March 2022               |
| <b>Inspector</b>                    | Colin McBride                             |

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 0.66 hectares, is located approximately 3.5km south of Ashbourne and to the south of the L-5032-0. The appeal site is currently agricultural lands consisting of a field with an irregular shape and an existing vehicular entrance off the public road. The area is characterised by a high degree of one-off housing with existing dwellings located to the east and west of the site. To the east is a larger single-storey dwelling and to the west is a two-storey dwelling with the appeal site having a portion that is located to the rear of the existing dwelling. The appeal site is flat.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of a detached single-storey dwelling, installation of a wastewater tremanet system, new site entrance and all associated site works. The proposed dwelling has a floor area of 208sqm and a ridge height of 5.325m. The dwelling features a pitched roof and external finishes appearing to mainly a plaster finish with a portion with a stone finish and roof slates.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused based on two reasons...

1. It is considered that the proposed development by reason of the restricted site width and consequent unsatisfactory design and layout would be out of character with the pattern of development in this rural area. The proposal would therefore constitute a disorderly form of development which would impact negatively on the residential amenity of adjacent properties and that would be out of character with the pattern of development in the area. Therefore, the proposed development would depreciate the value of adjacent properties in the vicinity, would set an undesirable precedent for similar future development in this area, would detract from the visual

amenity of the area and would be contrary to the proper planning and sustainable development in the area.

2. The location of the proposed development is shown on the Office of Public Works PRFA flood mapping as having a portion of the site and surrounding within the 1% AEP pluvial flood zones, as well as having a history of pluvial flooding and flooding due to overland flow in the area. The applicant has also not taken into account the OPW channel C1/6/1 and impacts of same which runs adjacent to the proposed development site. Therefore, it has not been demonstrated to the satisfaction of the Planning Authority, in the application documentation submitted that the proposed site will not be impacted upon by flooding. In absence of this information it is considered that the proposed development would be contrary to policies WS POL 29 and WS POL 32 of the Meath County Development Plan 2013-2019 and would be contrary to the DoEHLG Flood Guidelines 2009, entitled "The Planning System and Flood Risk Management".

Accordingly, to grant the proposed development would contravene materially a policy of the Meath County development Plan 2013-2019, would be prejudicial to public health, would pose and unacceptable risk to the owner/occupier of the proposed dwelling house, would be contrary to ministerial guidelines issue to the Planning Authorities under Section 28 of the Planning and Development Act 2000-2001, and therefore be contrary to the proper planning and sustainable development in the area.

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

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

Planning Report (01/10/21): Issues raised concerning restricted width of site, pattern of development, impact on adjoining amenities and flooding issues concerning the site. Refusal was recommended based on the reasons outlined above.

#### **3.2.2. Other Technical Reports**

Environment (01/01/21): Further information required including application of a development management justification test due to part of the site being within the 1% AEP pluvial flood zones.

### **3.3. Prescribed Bodies**

None.

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

3.4.1 None.

## **4.0 Planning History**

21/271: Permission refused for construction of a dwelling and associated site works. Refused due to being out of character with pattern of development.

AA/201198: Permission refused for construction of a dwelling and associated site works. Refused due to being out of character with pattern of development.

## **5.0 Policy Context**

### **5.1. Development Plan**

The relevant Development Plan is the Meath County Development Plan 2021-2027.

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 8 Section 8.6.1 UNESCO World Heritage Site of Brú na Bóinne.

The Meath County Development Plan 2007-2013 identified three area types in the county following detailed research and assessment.

The three rural area types are identified on Map 9. 1.

The appeal site is located in **Area 1 - Rural Areas under Strong Urban Influence**

Key Challenge: To facilitate the housing requirements of the rural community while directing urban generated housing development to areas zoned for new housing in towns and villages in the area of the development plan.

## Policies

### 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.

### RD POL 2

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.

### RD POL 3

To protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development and to maintain the identity of these urban centres.

## 9.4 Persons who are an Intrinsic Part of the Rural Community

The Sustainable Rural Housing Guidelines outline that Planning Authorities in formulating policies recognise the importance to rural people of family ties and ties to a local area such as parish, townland or the catchment of local schools and

sporting clubs. It also delivers positive benefits for rural areas and sustains rural communities by allowing people to build in their local areas on suitable sites.

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:

- Clearly demonstrate a genuine need for a dwelling on the basis that the applicant is significantly involved in agriculture. In these cases, it will be required that the applicant satisfy the Planning Authority with supporting documentation that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. It is also considered that persons taking over the ownership and running of family farms and/or the sons and daughters of farmers would be considered within this category of local need. The applicant shall satisfy the Planning Authority as to the significance of their employment. Where persons are employed in a part time capacity, the predominant occupation shall be farming / natural resource related. It should be noted, that where an applicant is also a local of the area, the onus of proof with regard to demonstrating the predominance of the agricultural or rural resource employment shall not normally be required.
  
- Clearly demonstrate their significant employment is in the bloodstock and equine industry, forestry, agri-tourism or horticulture sectors and who can demonstrate a need to live in a rural area in the immediate vicinity of their employment in order to carry out their employment. In these cases, it will be required that the applicant satisfy the Planning Authority with supporting documentation that the nature of the activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. The applicant shall satisfy the Planning Authority as to the significance of their employment. Where persons are employed in a part time capacity, the predominant occupation shall be bloodstock and equine industry, forestry, agri-tourism or horticulture related. It should be noted, that where an applicant is also a local of the area, the onus of proof with regard to demonstrating the

predominance of the agricultural or rural resource employment shall not normally be required.

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. For the purposes of this policy section, 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;
- Persons who were originally from rural areas and who are in substandard or unacceptable housing scenario's and who have continuing close family ties with rural communities such as being a mother, father, brother , sister, son, daughter, son in law, or daughter in law of a long established member of the rural community being a person resident rurally for at least ten years;
- Returning emigrants who have lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for older members of their family or to retire, and;
- Persons, whose employment is rurally based, such as teachers in rural primary schools or whose work predominantly takes place within the rural area in which they are seeking to build their first home, or is suited to rural locations such as farm hands or trades-people and who have a housing need.

#### RD POL 9

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

## 5.2 Sustainable Rural Housing Guidelines for Planning Authorities (2005):

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 rural areas under strong urban influence which are defined as those within proximity to the immediate environs or close commuting catchment of large cities and towns. 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'.

The site is located in an area classified as an Area Under Strong Urban Influence under Indicative Outline of NSS Rural Area Types.

### 5.3 National Planning Framework – Project Ireland 2040

NPO19 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.

The proposal was assessed under previous Development Plan, Meath County Development Plan 2013-2019, which has superseded. The rural housing policies are unchanged from the previous plan.

### 5.4 Natural Heritage Designations

None within the zone of influence of the project.



## **5.5 EIA Screening**

The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the development, which is a new dwelling and associated site works, the absence of features of ecological importance within the site, I conclude that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1 A third party appeal has been lodged by Ger Fahy Planning on behalf of the applicant, Darren Mc Dermott, Baltrasna, Ashbourne, Co. Meath. The grounds of appeal are follows...

- The appeal submission outlines the applicant's background and status in regards to Rural Housing policy and the fact that the proposal is a rural generated house and that the applicant is an intrinsic member of the rural community having resided in the area a significant period of time and being employed in a family business in the area.
- The site is an infill site so would not exacerbate ribbon development in the area.
- The previous refusal on site are noted and the proposal has been designed to address the concerns regarding the width of the site and the pattern of development with an increased width of the site and reduction in the scale of the dwelling. The appellant refers to other permissions granted in Co. Meath where the sites were narrower in width than the appeal site. The assessment of this proposal failed to acknowledge the significant changes made to address the reasons for refusal under the previous decisions on site.

- The issue of flooding was not raised in the previous decisions to refuse permission on site and the appellant has submitted a Flood Risk Assessment with the appeal. The Flood Risk Assessment demonstrates that site is not at risk from tidal, fluvial or groundwater flooding and that there is no historical records of flooding on site. There is no basis for concluding that part of the site is located within the 1% AEP pluvial flooding zone or at risk of pluvial flooding.

## 6.2. Planning Authority Response

### 6.2.1 Response by Meath County Council.

- The PA request that the Board uphold the decision to refuse permission.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Rural Housing policy

Design, scale, pattern of development

Public Health

Traffic

Land ownership

7.2. Rural Housing policy:

7.2.1 Rural housing policy was not a reason for refusal however I would consider that it is pertinent issue that merits assessment. The application was assessed under the Meath County Development Plan 2013-2019, which has been superseded by the Meath County Development Plan 2021-2027, however rural housing policy is unchanged in terms of its structure and criteria. The appeal site is located in Area 1 -

Rural Areas under Strong Urban Influence. It is policy under RD POL1 “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”. The definition of persons who are an intrinsic part of the rural community is outlined under the policy section above under The criteria also includes a definition 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.

7.2.2 In this case the applicant he lives in the townland of Baltrasna, 1.1km from the application site in the family home and has not owned/sold a property previously. The application includes documentation to support such. The applicant has lived with his uncle for a considerable period of time and is employed in his uncle’s hotel in the settlement of Ashbourne. The site is taken from family lands. The Planning Authority deemed that the applicant demonstrated compliance with local need policy as set out under Section 10.4 of the Meath County Development Plan. As noted above the criteria in the current Development Plan is under Section 9.4 and is unchanged. In this case the applicant does not meet the criteria of a person who is an intrinsic part of the rural community but does meet the definition 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.

7.2.3 The applicant was deemed to qualify for rural housing based on Development policy by the Planning Authority and the applicant clearly meets the definition 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 but not a person who is an intrinsic part of the rural community. Development Plan policy is a little unclear with policy RD POL1 relation to Rural Areas Under Strong Urban Influence “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” but not mentioning persons local to or linked to the area.

7.2.4 In terms of the Sustainable Rural Housing Guidelines and the NSS Rural Area Types, the appeal site is an area Area Under Strong Urban Influence. Consideration must be given to national policy with the site located in an area under urban influence based on its classification under national policy. National policy set out under the Objective 19 of the National Planning Framework and the guidance set out in the Sustainable Rural Housing Guidelines emphasises the requirement to demonstrate an economic, social or functional need to live in a rural area under strong urban influence such as this. In this case the applicant clearly has links to the rural area and a desire to reside in the area but based on the fact their occupation is urban based and not intrinsically linked to the rural area, the applicant does not have a defined social or economic need to live in this area of strong urban influence and the development would be contrary to Objective 19 of the National Planning Framework and would be contrary to the guidance set out in the Sustainable Rural Housing Guidelines.

7.2.5 The proposed development, in absence of any identified local based need for the house at this location, would result in a haphazard and unsustainable form of development in an unserviced area, 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 and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.3 Design, scale and pattern of development:

7.3.1 The proposal is for a single-storey dwelling on a flat site. The proposal was refused on the basis of the narrow width of the site with the dwelling considered contrary to the pattern of development and having an adverse impact on adjoining properties. The previous proposals on site were for larger dwellings. In response to the previous refusals the dwelling proposed is single-storey. I think there are inherent issues regarding sporadic on-off housing development at this location and I would refer to the previous section regarding rural housing policy. Notwithstanding such and

limited to a consideration of design and pattern of development, the proposal is for a modest sized dwelling being single-storey and having a low ridge height on what is an infill site between existing dwellings. There is a variation in building line between the sites to the east and the west. I would be of the view that the overall scale and design of the dwelling would be satisfactory in terms of visual impact as it is low profile in design, located on a flat site and not an area that is prominent or visible in the surrounding area. In relation to adjoining amenity the dwelling is single-storey and provision of adequate boundary tremanet or landscaping would mean no adverse impact on adjoining amenities.

7.3.2 I would be of the view that the overall design and scale of the dwelling is acceptable in the context of visual amenity and would be consistent with the recommendation of the Rural Design Guide incorporated into the County Development Plan. I would consider subject to appropriate landscaping that the proposal would be satisfactory in the context of visual amenity.

#### 7.4 Public Health:

7.4.1 The proposal entails the installation of a new proprietary wastewater tremanet system to serve the new dwelling. The site is underlain by an aquifer classified as locally important with groundwater vulnerability indicated as being low. Site characterisation was carried out including trial hole and percolation tests. The trial hole test (1.5m) and detected the water table in the trial hole at 1m. T tests for deep subsoils and/or water table both by the standard method were carried out with percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The test results indicate percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries).

7.4.2 Public health in relation to wastewater treatment was not an issue raised in the decision to refuse, however I would consider it is an issue of concern. I would consider that notwithstanding the proposal to use a proprietary wastewater treatment system on site, that having regard to the proliferation of domestic wastewater treatment systems in this rural area, the high water table as evidenced in the trial hole tests, and to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-sewered rural areas, avoiding sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities. I could not be satisfied, on the basis of the information on the file, that the impact of the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of groundwater pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.5 Traffic:

7.5.1 The site has an existing entrance with a proposal for a new upgraded entrance. I am satisfied that the location of the approved entrance is satisfactory in the context of available sightlines and in relation overall traffic safety.

7.6 Flood risk:

7.6.1 The second reason for refusal was based on a portion of the site being indicated on the Office of Public Works PRFA flood mapping as having a portion of the site and surrounding within the 1% AEP pluvial flood zones, as well as having a history of pluvial flooding and flooding due to overland flow in the area. It was also deemed that the applicant has also not taken into account the OPW channel C1/6/1 and impacts of same which runs adjacent to the proposed development site. The PA was of the view that it had not been demonstrated that the proposed site will not be impacted upon by flooding. It is considered that the proposed development would be contrary to policies WS POL 29 and WS POL 32 of the Meath County Development Plan 2013-2019 and would be contrary to the DoEHLG Flood Guidelines 2009, entitled "The Planning System and Flood Risk Management".

7.6.2 The appeal submission includes a Flood Risk Assessment report. The report outlines that tidal, fluvial and groundwater flooding are not possible at this location. In terms of pluvial flooding OPW flood maps do not indicate that the site is susceptible to pluvial flooding and there are no recorded flood events on site. There were land drainage works carried out in 2016 in the area with connection of two open drains (north of the site on the opposite side of the road) and there have been no flooding issues in the area since these works. It is considered that based on this information a justification test is not required as the site is not required.

7.6.3 Having examined the flood maps, I am satisfied that the appeal site is not located in Flood Zone C for the purposes of all sources of flooding and that a justification test is not required. The drainage channel referred to in the reason is not located close enough to the site for the development to have any impact on such and records show that any historical incidences of flooding in the area for which the drainage works were carried out did not occur on the appeal site. I am satisfied on the basis of the information available and the report submitted by the appellant that the development is satisfactory in the context of flood risk.

## **8.0 Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity 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.

## **9.0 Recommendation**

9.1. I recommend refusal based on the following reasons.

## 10.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005, 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, the Board could not be satisfied on the basis of the information on the file that the applicant comes within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines.

The proposed development, in absence of any identified local based need for the house at this location, would result in a haphazard and unsustainable form of development in an unserviced area, 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 and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the proposal to use a proprietary wastewater treatment system on site, the Board had regard to the proliferation of domestic wastewater treatment systems in this rural area, the high level of the water table on site and to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-sewered rural areas, avoiding sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities. The Board could not be satisfied, on the basis of the information on the file, that the impact of the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of groundwater pollution. The



proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Colin McBride  
Senior Planning Inspector

21<sup>st</sup> March 2022