



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312142-21

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<b>Development</b>	Construction of house
<b>Location</b>	Headstown, Castletown, Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	211860
<b>Applicant(s)</b>	Emma Duffy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Robert Kenny
<b>Date of Site Inspection</b>	05 <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 0.764 hectares, is located approximately 2.7km south east of Nobber, Co. Meath in the townland of Headstown. The appeal site is part agricultural lands accessed off the L34011. The site is accessed from an existing laneway with a tarmac surface that serves an existing residential development, The Courtyard, which is an 18<sup>th</sup> century two-storey building split into a number of dwellings. The appeal site is located to the east of this structure and is part of a large field (grassland). Levels on the site increase moving northwards away from the laneway with a crest on site running east west.

## **2.0 Proposed Development**

2.1. Permission is sought for the construction of a storey and a half dwelling, new domestic garage, installation of a septic tank and percolation area and associated site works. The appeal site is to be accessed off an existing laneway that serves a courtyard development of residential units. Water supply is to be from a private well.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 17 conditions. The conditions are standard in nature.

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

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

Planning report (15/11/21): The proposal was deemed to be in accordance with the proper planning and sustainable development of the area.

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

Transportation Department (10/11/20): No objection.

Conservation Officer (11/11/21): No objection.

Water Services (18/10/21): No objection.

Irish Water (19/10/21): No objection.

### 3.3. **Prescribed Bodies**

None.

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

Submission by Robert Kenny, Townley Hall, Drogheda, Co. Louth. The issues raised can be summarised as follows...

- Previous refusal on this site with no material changes in the current application.

## 4.0 **Planning History**

KA/201494: Permission refused to Emma Duffy for a dwelling and associated site works. Refused based on three reasons including an excessive concentration and density of residential development in a rural area, visual impact and access/traffic hazard issues.

Other sites

KA/201491: Permission granted for a dwelling and associated site works immediately to the west (part of the same landholding).

KA/201490: Permission granted for a dwelling and associated site works c. 190m to the east of the site (part of the same landholding).

00/993: Permission granted for a two-storey extension to an existing dwelling c. 160m north east (part of the same landholding).

NA/900015: permission granted for retention of a wastewater treatment system, percolation area and pump house, and c. 145m west.

## 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 2 - Strong Rural Areas**

Key Challenge: To maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in the wider rural area.

Policies

#### RD POL 4

To consolidate and sustain the stability of the rural population and to strive to achieve a balance between development activity in urban areas and villages and the wider rural area.

#### RD POL 5

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

#### 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 appeal site is located in an Area Under Strong Urban Influence (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 Robert Kenny, Townley Hall, Drogheda, Co. Louth. The grounds of appeal are as follows...

- There is a previous refusal on the site (KA201494) and there are no material changes to the proposal that merit overturning the previous refusal decision.
- Issues concerning development description, details regarding, site boundary and extent of the landholding site is taken from. Contrary section 23(l)(i) of the Planning and Development Regulations.
- The applicant does not have rural generated housing need and does meet the criteria under the County Development Plan or national policy in relation rural housing.
- There have been previous permissions granted from this landholding with the proposal overdevelopment of a small rural landholding.
- The appellant notes that the applicant's family rents out two houses in the courtyard development nearby and family needs could be satisfied by such.



The applicant is not carrying out farming activities at this location with the farmyard associated with the landholding rented out.

- Impact of the development on a structure of architectural heritage value (The Courtyard) due to proximity.
- Site characterisation report is misleading and the application fails to identify the location of the wastewater treatment system serving the Courtyard development, which is in close proximity to the site.
- The existing laneway serving the site is narrow and unsuitable for additional traffic and will constitute a traffic hazard.
- The design, scale and siting would result in a prominent and adverse visual impact at this location.

## 6.2. Applicant Response

### 6.2.1 Response by the applicant, Emma Duffy, Headstown, Castletown, Navan, Co. Meath.

- The appellant is no longer the owner of no. 7 the Courtyard and no longer has any interest in property at this location.
- The dwelling is not excessive in scale and the public notices are accurate in description and was deemed to be acceptable in terms of visual impact by the Council/in accordance with the Rural Design Guide.
- The plans submitted are in accordance with the Planning and Development Guidelines.
- The applicant clarifies that the laneway is a right of way and should have been identified in yellow.
- The applicant outlines that their work arrangements which include working from home and that they provided all necessary documentation to establish local needs as required by Meath County Council.
- The applicant acknowledges that her parents own two properties in the Courtyard development however such are unavailable (mortgaged) to the applicant and her siblings.

- The wastewater treatment arrangements were deemed acceptable by the Council as was traffic impact with the Council reports indicating such.
- The dwelling does not impact the setting of the existing 18<sup>th</sup> century courtyard building.

### 6.3. Planning Authority Response

#### 6.3.1 Response by Meath County Council

- The PA states that the issues raised in the appeal were considered in assessment of the proposal and request that the Board uphold the decision to grant 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

7.2. Rural Housing Policy:

7.2.1 One of the main issues raised by the appellant concerns Rural Housing policy and compliance with such. The application was assessed under the Meath County Development Plan 2021-2027. The appeal site is located in Area 2 - Strong Rural Areas. It is policy under RD POL 5 “to facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan”. 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 The applicant was previously refused for a dwelling on the appeal site under ref no. KA/201494 with a reason relating to failure to comply with rural housing policy. It appears that since this application two of the applicant's siblings have been granted permission for dwellings on this landholding and in this context the applicant was deemed to comply. It was noted that two dwellings in the Courtyard owned by the applicant's parents and part of the landholding the site is taken from are not in the applicant's ownership or available to fulfil her housing needs. Based on the information on file the applicant resides at this location in the family home, which is to the north east of the site. The applicant works in Blanchardstown so does not fulfil the criteria for persons who are an intrinsic part of the rural community but would come under 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. I would be of the view that the applicant would comply with the policy under RD POL 5 "to facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan" given the applicant links to the area.

7.2.3 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 despite being classified as a Strong Rural Area under the County Development Plan. 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.

7.2.4 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, pattern of development:

7.3.1 The appellant has raised concerns regarding the impact of the proposal on the rural character of the area and its proximity to a structure of architectural heritage value (The Courtyard). Permission has been given for a single-storey dwelling on the site immediately to the west and there is the existing Courtyard development further west. I would of the view that the appeal site is not a prominent location or highly visible in the surrounding area. The dwelling design would accord with the Meath County Rural Design guide and is a contemporary dwelling exhibiting some vernacular characteristics. The dwelling would not have an adverse impact on the setting of the Courtyard structure, which is sufficiently removed from the site.

7.4 Public Health:

7.4.1 The proposal entails the installation of a conventional septic tank and percolation area the new dwelling. Site characterisation was carried out including trial hole and percolation tests. The trail hole test (2.05m) did not detect the water table. T tests for deep subsoils and/or water table 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 site is underlain by a locally important aquifer with groundwater vulnerability classified as high. 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) however there is no details regarding the location of the wastewater treatment system serving the Courtyard development to the west, however it is unlikely to be within a distance that would be contrary the EPA separation distances (there is a permitted dwelling on the site immediately to the west, KA/201491), however such should have been identified on the documents submitted.

7.4.2 Notwithstanding the results of the site characterisation tests indicating that soil conditions on site are suitable for wastewater treatment, the appeal site is in an area classified as having high groundwater vulnerability. It is also notable that water supply is to be from a private well and on a landholding that is limited in size on which two recent permissions have been granted for dwellings both which are to be served by private wells (KA/201491 immediately to the west and KA/201490 located a short distance to the east). The proposed dwelling is to be served by a well and the permitted dwellings on the landholding appear to be reliant on groundwater as their main water supply in the area. I would consider that having to the proliferation of domestic wastewater treatment systems (both permitted and existing) in this rural area, 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 file, that the impact of the proposed development in conjunction with existing and permitted wastewater treatment systems in the area would not give rise to a risk of groundwater pollution in an area highly dependent on such for water supply. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

7.5 Traffic:

7.5.1 The applicant raises concerns regarding traffic impact and the suitability of the existing laneway and layout of the entrance onto the public road for additional traffic. The previous application refused on site was refused on the basis of traffic concerns. The appeal site is served by an existing laneway with an entrance on the western side of the L34011. The laneway is approximate 4-5m wide and is surfaced in tarmac as far as the appeal site. The laneway serves the landholding the site is taken from (existing gate access to the appeal site) and a residential development to the west (the Courtyard), which is split into 7 dwellings.

7.5.2 The existing laneway appears to be well maintained and is in active use to serve an existing residential development. Sightlines at the entrance onto the public road would appear of a sufficient standard and the public does not appear to be heavily trafficked. I would be of the view that the existing laneway and entrance is of sufficient standard and condition to cater for the turning movements generated by an additional dwelling without cause for concern regarding traffic hazard or obstruction of other road users.

## **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 unserved 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 (both existing and permitted) in this rural area and on the landholding, the fact that that groundwater in the area is classified as highly vulnerable and that the proposed and existing dwellings in the area are highly dependent on groundwater as a source of water supply, 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 and permitted 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  
Planning Inspector

07<sup>th</sup> March 2022