



An
Bord
Pleanála

Inspector's Report ABP-312469-22

Development	House, wastewater treatment system and associated site works.
Location	Rathbran Beg, Lobinstown, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	21953
Applicant(s)	Stuart Fedigan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mary Finnegan & the Finnegan Family
Date of Site Inspection	18 th March 2022
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.37 hectares, is located to the west of Collon in the townland of Rathbran Beg, Co. Meath. The appeal site is an existing field area that appears to be attached to a single-storey dwelling that has been excluded from the site boundaries but is part of the overall landholding. The existing dwelling is located at the south western corner of the site and the appeal site uses an existing entrance serving the dwelling. Adjoining uses include agricultural uses (fields) to the south and east and a two-storey dwelling on the site to the north. The boundaries of the appeal site are defined by an existing hedgerow.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two-storey dwelling, installation of a wastewater treatment system and associated site works. The proposed dwelling has a floor area of 214.4sqm and a ridge height of 8.5m. The dwelling features a pitched roof with external finishes mainly a plaster finish, and a portion with a natural stone finish and blue/black roof slates. The dwelling appear use an existing entrance that serves a single-storey dwelling that the site wraps around.
- 2.2. The proposal was revised in response to further information. The site was reduced in size to leave more space around the existing single-storey dwelling to allow for its potential redevelopment. The entrance to new dwelling was relocated further to the north with the proposal no longer using the entrance to the existing single-storey dwelling

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 16 conditions, the conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (09/07/21): Further information required including additional documentary evidence to demonstrate rural based housing need, details of how the existing vernacular cottage is to be retained and revisions required by the Transportation Department.

Planning Report (15/12/21): The proposed development was deemed to be in accordance with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Transportation (01/07/21): Further information including a revised site layout showing the entrance 50m from a nearby junction and provision of unobstructed sightlines of 90m.

Transportation (08/12/21): No objection subject to condition.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1 One submission from Mary Finnegan on behalf of the Finnegan family. The issues raised can be summarised as follows...

- Land ownership and consent issues.

4.0 Planning History

No planning history (withdrawn application for replacement house).

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 Development Plan identifies 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.

This area is underpinned primarily by relative levels of residential stability compared to Area Type 1 within a well-developed town and village structure and in the wider rural area around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be lower than that within Area Type 1 and confined to certain areas.

This area type is to be found in rural areas along a spine from the north of the county east of and including Kells as far as Oldcastle. The environs of Athboy and Slane are also included in this category. This area has less of a tradition of urban settlement. It is under more moderate pressure for one-off housing development than the areas under strong urban influence.

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 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 Mary Finnegan & the Finnegan Family, Begsreeve, Lobinstown, Navan, Co. Meath. The grounds of appeal are follows...

- The appeal site is not owned by the applicant and is not owned by the individual indicated on the file/the individual that has signed the letter of consent. The site is owned by Mary Finnegan who has not consented to the application. Under the Development Management guidelines where the applicant is not the owner a letter of consent is required from the owner. In this case the application should be invalidated.
- The appellants own the field to the side of the appeal site (south). The proposal development would reduce the development potential and usability of the land adjoining the site and the information submitted is inaccurate in that there is an existing watercourse within 250m.
- The site is located in a Strong Rural Area. The appellants note that there are settlements in the area that would cater for the applicant housing need and they do not have rural based housing need based on their occupation.

6.2. Applicant Response

6.2.1 Response by the applicant Stuart Fedigan, Rathbran, Lobinstown, Navan, Co. Meath.

- The applicant has the consent of the landowner to make the application.
- Percolation tests were carried out in accordance with EPA guidelines and the proposal complies with the EPA code of practice.
- The applicant has demonstrated that he qualifies to build a house based on rural housing policy and its location in a Strong Rural Area.
- The proposal does not alter at the existing boundaries and would not impact the rural character of the site.
- The applicant is employed in the local area and services the local community and that there is demand in the rural area for electricians.

6.3. Planning Authority Response

6.3.1 Response by Meath County Council.

- The PA state 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

Land ownership

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 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 2 – Strong Rural Area. It is policy under RD POL5 “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. 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 lives in the local area in the family home and has not owned/sold a property previously. The application includes documentation to support such. 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 2013-2019. 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.
- 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 for the purposes of 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 and a desire to reside in the area but based on the fact their occupation is 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 two-storey dwelling on flat site. The PA deemed the design and layout to acceptable in the context of the Rural Design Guide. I would be of the view that the site is not an elevated or prominent site, is not in an area designated as being a scenic area or an Area of Outstanding Natural Beauty with the site in an area classified as North Navan Lowlands and of moderate landscape value.

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 recommendations of the Rural Design Guide incorporated into the County Development Plan. I would consider subject to appropriate landscaping and retention of existing vegetation 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 treatment system to serve the new dwelling. The site is underlain by an aquifer classified as poor with groundwater vulnerability indicated as being high. Site characterisation was carried out including trial hole and percolation tests. The trial hole test (2.1m) did not detect the water table in the trial hole. T tests for deep subsoils and/or water table and P tests for shallow soil/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. Groundwater vulnerability is identified as high. 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) although there is a question mark regarding whether there is a septic tank serving the existing dwelling, which look like it was occupied in recent past .

7.4.2 The proposed dwelling is to be served by a private well as is the existing dwelling to the north. It is clear that the site is in an area where there is a high dependency on groundwater for water supply. There is an existing dwelling adjoining the site that is currently vacant. The approved development was altered to allow for its future refurbishment with potential for extension and provision of a wastewater treatment system and proposed well. The existing dwelling although it appears to be vacant is in reasonable structural condition and it is not clear if there is an existing septic tank serving such. The appeal site appears to be the curtilage of the existing dwelling and there is question mark regarding the level of land left with such in the context of provision of a wastewater treatment system.

7.4.3 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 (including the existing single-storey dwelling part of the overall landholding the site is taken from) in this rural area, 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. 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 original proposal was to use the existing entrance serving the single-storey dwelling adjoining the site. The proposal was revised with the approved development providing for a new vehicular entrance to the proposed dwelling further north and the existing single-storey dwelling would retain its own entrance. I am satisfied that the location of the approved entrance is satisfactory in the context of available sightlines and in relation to overall traffic safety.

7.6 Land ownership:

7.6.1 One of the primary grounds for appeal relates to land ownership and consent. The applicant is not the owner of the site but has submitted a letter of consent from the landowner stated as being Oliver Finnegan. The appellants who are related to stated landowner dispute that he is the landowner and that consent has not been obtained from the relevant landowner. There is clearly a family dispute regarding the ownership of land relative to this site. I would refer to Section 5.13 of the Development Management Guidelines which state that “the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development”. The issue raised is not a planning matter and as noted section 34(13) of the Planning and Development Act applies.

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 (including the existing single-storey dwelling part of the overall landholding the site is taken from), 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 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.

Colin McBride
Senior Planning Inspector

21st March 2022