



An
Bord
Pleanála

Inspector's Report

ABP-312693-22

Development	House & garage with wastewater treatment system. Associated site works.
Location	Kilgraique, Kilcloon, Co. Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	212196
Applicant(s)	Michael Doyle
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mary & Christy Flynn and others
Date of Site Inspection	16 th April 2022
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.4 hectares, is located in the townland of Kilgrague, Co. Meath, which is approximately 5km north of Maynooth. The appeal site is part of a field area on the northern side of a public road that ends in a cul de sac adjacent a short distance east of the site. The site is level and currently in agricultural use (improved grassland). Adjoining uses include agricultural use to the north and west (part of the field the site is taken from) with the public road defining the southern boundary and part of the eastern boundary. The southern and eastern boundaries of the site is defined by hedgerow with no established boundaries to the north and west. There are a number of dwellings adjoining the site with the nearest being a single-storey dwelling adjoining the eastern boundary of the site (appellants dwelling).

2.0 Proposed Development

2.1. Permission is sought for a two-storey dwelling, a detached garage, a new vehicular entrance and a wastewater treatment system with percolation area. The proposed dwelling has a floor area of 238sqm (garage has a floor area of 26sqm) and a ridge height of 7.94m. The dwelling features a pitched roof and external finishes of napped plaster and black/grey roof slates/tiles.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 19 conditions. The conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (19/01/21): The proposed development was considered to be acceptable in the context of the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Transportation (06/01/21): No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Submissions received from

Christy & Mary Flynn, Grove Lodge, Kilgrague, Kilcloon, Co. Meath.

Colette & Liam Flynn, Kilgrague, Kilcloon, Co. Meath.

The issues raised can be summarised as follows...

- Impact on adjoining amenity including overlooking and headlights, traffic impact/capacity of public road.

4.0 Planning History

No planning history.

Adjacent sites to the west...

21195: Permission granted for a dwelling, entrance and water wastewater treatment system.

21203: Permission granted for a dwelling, entrance and water wastewater treatment system.

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 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 Mary, Christy, Collette & Liam Flynn, Kilgrague, Kilcloon, Co. Meath.

- The proposal constitutes overdevelopment (two dwellings permitted already on the landholding) at this location with concerns about the capacity of the laneway to accommodate further development.
- The proposal would constitute a traffic hazard with intensification of traffic at a junction with the L2214 where sightlines are inadequate.
- Validation issues with no site notice in place when the application was lodge. There is also no proof that test holes were excavated on site.
- The appellants question the applicant's compliance with local housing need policy and consider that the applicant has not demonstrated a site specific rural housing need with the proposal contrary to the National Planning Framework.
- The orientation and siting of the dwelling would overlook the appellants' property (located to the east of the site).

6.2. Applicant Response

6.2.1 Response by the applicant, Michael Doyle

- The applicant is surprised by the grounds of appeal given that they had consulted with the appellants prior to lodgement.
- The proposal does not constitute overdevelopment and would not fall within the definition of ribbon development.
- The applicant refute the appellants' assertion of traffic hazard noting there are conditions requiring alterations that will improve traffic safety, There has been no history of traffic incidents at the junction with the L2214. The Council's Transportation Section raised no objection to the proposal.
- A site notice as required was erected on site and percolation tests and trial hole tests were carried out on site.
- The applicant submitted the required documents to demonstrate local needs as required by the Meath County Development Plan. The applicant outlines his ties to the area and agricultural activity.

- The proposal has regard to the amenities of the appellant property with only one window on the ground and first floor eastern gable (obscure glazing) and no overlooking issues relating to the appellants' property. The design of the driveway is such that headlights will not shine into the appellants' property.

6.3. Planning Authority Response

6.3.1 Response by Meath County Council.

- The issues raised in the third party appeal have been addressed in the planning report associated with the file. The PA request that the Board uphold the decision to grant.

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

Traffic

Public Health

7.2. Rural Housing Policy:

7.2.1 Compliance with rural housing policy was raised by the appellants. The application was assessed under the Meath County Development Plan 2021-2027. 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. 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 Based on the information on file the applicants address is Kilgraique with the appeal site on family owned lands. The applicant's family home is at this location and the applicant has grown up in the area. I would note that the specific qualification information submitted to the Planning Authority has not been submitted to the Board. Based on the information in the planning report and the applicant's response, the applicant is based in England for work/study and returns home every weekend. The applicants' intention is to live and in work in Ireland. The intention is to take over a family business that is based in Clane. The information on file indicates that the applicant is involved agricultural activities being a trained hunter and being involved in culling wild animals. The Planning Authority deemed that the applicant demonstrated compliance with local need policy as set out under Section 9.4 of the Meath County Development Plan. 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. I would base this conclusion on the fact the applicant is not engaged in full time agricultural activity at the location in question and the applicant has indicated that the intention is to be involved in a family business that is located in an urban area (Clane).

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 current occupation is not rurally based and their potential future 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 two-storey dwelling on a flat site. The appeal site is located in an area classified as South-East Lowlands Landscape Character Area and is stated as being of very high value and moderate sensitivity. I would be of the view that the appeal site is neither a prominent or elevated site or highly visible in the surrounding area and that the proposal would be acceptable in regards to visual amenity of the area (subject to compliance with rural housing policy).

7.3.2 The appellants have raised concerns regarding the impact of the dwelling in terms of overlooking and the possibility of headlights shining into their windows due to the location of the driveway. The appellants' dwelling is a single-storey dwelling located to the east of the site. The proposed dwelling is set back a bit further than the appellants' dwelling. I would be of the view that there is a reasonable level of separation between the proposed dwelling and the appellants dwelling. In terms of overlooking there is limited windows on the eastern gable with only one window at ground floor level and one at first floor level, both serving a bathroom/ensuite and both to be fitted with obscure glazing,. The front elevation would not allow for direct views to the rear of the appellants' property. I would be of the view that the proposed development would be satisfactory in regard to the amenities of the adjoining property.

7.3.3 I would be of the view that the impact of car headlights from traffic travelling to the proposed dwelling is not an issue that would cause any reduction in residential amenity.

7.4 Traffic Impact:

7.4.1 The appellants raise concerns regarding the traffic impact and inadequate sightlines at a junction with the L2214. The proposal entails provision of a new vehicular entrance onto the public road. The existing public road is approximately 4m wide. The alignment of the road is straight and affords sufficient sightlines both to the east and west. Sightlines to the east are approximately 70m with a bend in road and given the low level of traffic on this road, its design speed, I am satisfied that sufficient visibility is available to cater for the proposed development.

7.4.2 In terms of capacity the existing road is in good condition and straight in alignment. I would consider that the public road is capable of catering for the traffic associated with an additional dwelling and subject to such being compliant with local and national rural housing policy.

7.4.3 The public road serving the site forms a junction with a public road to the east of the site. I am satisfied that this junction is capable of dealing with the additional traffic associated with the proposed development without any adverse traffic impact or obstruction of other road users.

7.5 Public Health:

7.5.1 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 locally important with groundwater vulnerability indicated as being moderate. Site characterisation was carried out including trial hole and percolation tests. The trial hole test (1.9m) and detected the water table in the trial hole at 0.8m. 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).

7.5.2 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 including permitted systems (two dwellings permitted with individual wastewater treatment systems on the sites to the west), the high water table as evidenced in the trial hole test, 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/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.

8.0 Recommendation

8.1. I recommend refusal based on the following reasons.

9.0 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 two permitted on the sites to the west), 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.

Colin McBride
Senior Planning Inspector

19th April 2022