



An
Bord
Pleanála

Inspector's Report

ABP-314406-22

Development

Construction of a part two storey, part storey and a half style dwelling with detached domestic garage, install proprietary waste water treatment system and percolation area, form entrance from the public road, together with all associated site works

Location

Clossaghmore, Rockcorry, Co. Monaghan

Planning Authority

Monaghan County Council

Planning Authority Reg. Ref.

22267

Applicant(s)

John McCollum

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

John McCollum

Observer(s)

None

Date of Site Inspection

14th July 2023

Inspector

Sarah Lynch

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1.0 Site Location and Description

1.1. The proposed development site is located within the rural townland of Clossaghmore, Rockcorry, Co.Monaghan. The site is taken of the applicant's wider landholding and measures 0.6ha in area. The site is bounded by a dense mature hedgerow and the land slopes up away from the road. There is an existing agricultural entrance onto the adjacent local secondary road. The adjacent road is less than 4 metres wide and due to the restricted width and alignment vehicle speeds observed were slow.

2.0 Proposed Development

2.1. It is proposed to construct a part two storey, part storey and a half dwelling, domestic garage, propriety waste water treatment system and percolation area and new entrance to the road.

3.0 Planning Authority Decision

3.1. Decision

Monaghan County Council determined to refuse permission for the proposed development due to non compliance with Policy RHP 4 of the Monaghan County Development Plan which requires the written consent of both the applicant and the owner of any agricultural buildings within 100 meters of the proposed dwelling. No such consent was provided.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planners report was consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- EHO – no objections subject to conditions.

3.3. Prescribed Bodies

None

3.4. **Third Party Observations**

One third party observation was received from Rita Killian and Simon Killian, issues raised within the observation submitted are the same as those raised within the observation to the appeal outlined below.

4.0 **Planning History**

MCC 21/386 – Permission was refused for the proposed part two storey part storey and a half dwelling on the basis that the development would be contrary to policy RHP4 of the Monaghan County Development Plan.

5.0 **Policy Context**

Development Plan

Monaghan County Development Plan 2019-2025

5.1. The applicable Development Plan is the Monaghan County Development Plan, 2019-2025, under which the site is situated outside of the settlement envelope and within an area identified as a 'Remaining Rural Area'.

5.2. Section 2.6 of the Plan deals with the matter of Rural Settlement.

5.3. Section 2.8 of the Plan sets out Rural Area Types.

5.4. Section 2.8.2 Remain Rural Areas:

This area comprises all other rural areas outside of the settlements and the rural areas under strong urban influence. Within the remaining rural area, it is recognised that sustaining smaller community areas is important and as such it is considered appropriate to facilitate rural housing in accordance with the principles of proper planning and sustainable development. In these areas the challenge is to retain population and support the rural economy while seeking to consolidate the existing village network.

5.5. Section 15.17 of the Plan deals with the matter of housing in rural areas in terms of siting and design.

- RHP 1 - Applications for one- off housing in the rural areas shall demonstrate compliance with the design guidelines as set out in Table 15.4 “Design Guidelines for Rural Housing”
- RHP 4 - To only permit a dwelling within 100m of an agricultural building where written consent has been provided by the owner/occupier of the agricultural unit. Written consent must be signed by both parties and witnessed by a solicitor or a peace commissioner.

5.6. Natural Heritage Designations

- 5.6.1. None in the immediate and/or the wider vicinity.

5.7. EIA Screening

- 5.7.1. Having regard to the nature and scale of the development proposed, i.e., a dwelling house, garage and associated works, the sites geographic remoteness from any Natura 2000 sites, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal which has been prepared by Gaffney & Cullivan Architects on behalf of the applicant. The grounds of appeal can be summarised as follows:

- The shed in question is cannot be classed as agricultural as the owners have stated that it is for their enjoyment and their residential amenity. Policy RHP 4 therefore does not apply.
- The applicant is a full-time farmer.
- Applicants have tried to engage with landowners unsuccessfully.
- Strong local need established.

6.2. Planning Authority Response

- The planning authority state that the proposed development is contrary to policy RHP 4 of Section 15.17.2 of the Monaghan County Development Plan 2019-2025 and would therefore be contrary to the proper planning and sustainable development of the area.
- The Board is referred to the planner's report.

6.3. Observations

One third party observation was received from Rita Killian and Simon Killian, issues raised within the observation submitted can be summarised as follows:

- Submitters holding is an equine registered premises.
- Land produces crop grass.
- Stables and storage shed for feed are present on site.
- Stable and storage shed are exempt.
- Reason for submission is to limit complaints about nuisance.
- Applicant has option of other sites on landholding.

7.0 Assessment

- 7.1. Having inspected the site and examined the associated documentation, the submissions and responses on file, I consider that the substantive matter that arises in this case relates to the Planning Authority's decision to refuse permission for the proposed development citing that the proposal would be contrary to the provisions of policy RHP4 of the Monaghan County Development Plan. It is important to note at this juncture that the applicant is full time engaged in agriculture and tends to livestock on the surrounding lands. I will briefly examine the overall need for a dwelling at this location within the following report. The substantive issues for consideration before the Board therefore relate to non compliance with policy RHP4 of the Monaghan County Development Plan and compliance with the rural settlement strategy of the said plan.

Compliance with RHP 4

- 7.2. It is contended within the grounds of appeal on behalf of the applicant that the neighbouring property upon which the donkey stables and feed shed are located, is not an agricultural building. It is argued that the owners of this property referred to their residential amenity within correspondence to the Council and as such this should be taken as an indication of the classification of the use of the structure.
- 7.3. It is important to note at the outset that the Board, within the consideration of this appeal do not have the jurisdiction to make a formal determination in respect of a structure that does not form part of the development under appeal and is not located within the development boundary of the appeal submitted. To do so would be ultra vires of the Boards function relative to the determination of this appeal.
- 7.4. I note from the information submitted that the owners of the donkey shed have stated that their shed is an equine registered premises, and the shed is utilised for the housing of donkeys. I further note section 15.17.2 of the Monaghan County Development Plan 2019-2025 in which it is stated that '*an agricultural building is a building used or last used for agricultural purposes or activity including the keeping of livestock, the storage of farm equipment, or any slurry or agricultural waste*'. It is clear within the development plan that the application of policy RHP 4 relates to such structures.
- 7.5. The aforementioned development plan policy is clear in its intention, the plan seeks to protect the current operations of a working farm from development that could prejudice their expansion. The plan states that 'where it is proposed to site a dwelling within 100 metres of an existing farm building within County Monaghan, the applicant shall be required to submit a written agreement from the owner of the farm building, consenting to the construction of the dwelling. This requirement shall only be applicable where the proposed dwelling is located within the rural area'. There is no ambiguity with regard to the policy or its intention.
- 7.6. The applicant has failed to provide evidence of such consent and the neighbouring property has explicitly states that they will not provide such consent. It is clear therefore that the proposed development contravenes policy RHP 4 and the overriding provisions of section 15.17.2 of the Monaghan County Development Plan 2019-2025. I am therefore left with no option but to recommend that the proposed development is refused on this basis as per Monaghan County Councils decision.

Settlement Strategy

- 7.7. It is important to briefly note to the Board that the proposed development site is located within a remaining rural area as outlined above. Within such areas it is recognised by the development plan that sustaining smaller community areas is important, and as such it is considered appropriate to facilitate rural housing in accordance with the principles of proper planning and sustainable development. In these areas the challenge as outlined within the development plan is to retain population and support the rural economy while seeking to consolidate the existing village network.
- 7.8. In this regard I also note the provisions of the National Planning Framework in relation to rural housing. The NPF also recognises the need to facilitate the provision of single housing in the countryside and considers the assessment should be 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’.
- 7.9. The Board should note that the applicant is full time engaged in agriculture and has an extensive landholding within the vicinity of the site. The overall design and siting of the proposed development is in accordance with the requirements of the Monaghan Rural Design Guidelines and there are no concerns relating to access or wastewater.
- 7.10. Given the applicants occupation which his based within the rural area and the requirements of the development plan in relation to rural housing in such areas I am satisfied that the applicant meets the requirements for a dwelling at this location.

Conclusion

- 7.11. Overall, it is clear therefore that the single substantive issue pertaining to the proposed development is the non-compliance with policy RHP 4. I am satisfied that the Council are clear in their application of this policy and the justification for such a policy is clearly outlined within the Monaghan County Development Plan 2019-2025. Thus, based on the information submitted I have no other option but to recommend refusal of the proposed development for the reasons set out below.

8.0 Recommendation

- 8.1. I recommend the proposed development is refused.

9.0 Reasons and Considerations

1. The proposed development which would be located less than 100 metres from a neighbouring agricultural building used for the housing of donkeys would by virtue of the absence of any written consent by the owner of the agricultural structure be contrary to the provisions of policy RHP 4 and Section 15.17.2 of the Monaghan County Development in which it is the policy 'to only permit a dwelling within 100m of an agricultural building where written consent has been provided by the owner/occupier of the agricultural unit. Written consent must be signed by both parties and witnessed by a solicitor or a peace commissioner'. The proposed development would therefore be contrary to policy RHP 4 and Section 15.17.2 of the Monaghan County Development Plan 2019-2025 and to the proper planning and sustainable development of the area.

Sarah Lynch

Senior Planning Inspector

16th July 2023

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.