



An
Bord
Pleanála

Inspector's Report

ABP-314958-22

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| Development | Construction of a house and garage, with all ancillary works |
| Location | Bishopswood , Portarlington, Co. Offaly |
| Planning Authority | Offaly County Council |
| Planning Authority Reg. Ref. | 22240 |
| Applicant(s) | Jason Whelan. |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | Third Party |
| Appellant(s) | Seamus & Patricia Whelan |
| Date of Site Inspection | 12 th July 2023 |
| Inspector | Dolores McCague |

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1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Bishopswood, Co. Offaly, just over 1km from Portarlington, Co Laois and c6km from Monasterevin, Co Kildare, on a cul-de-sac local road which ends just short of the River Barrow to the south. The river divides this south eastern corner of Co Offaly from Co Laois. The town of Portarlington extends into Co Offaly to the west of the site including Spa St, the stated birthplace of the applicant.
- 1.1.2. This tertiary local road is straight and narrow and serves farmland and some other one-off rural houses. There are hedgerows along either side of the road including the site's road frontage. The site is part of a narrow field which has its long axis along the road and extends to the western boundary which is formed by a hedge. Its northern boundary is a beech hedge and fence forming the boundary of a recently developed residential property to the north. It's southern boundary is undefined. The site is flat and has become overgrown with rank grass.
- 1.1.3. The site is given as 0.303 hectares.

2.0 Proposed Development

- 2.1.1. The application is for permission for a house, garage, vehicular entrance, septic tank and percolation area.
- 2.1.2. The proposed house, is part single storey, part two storey, with a stated floor area of 258sqm and a max. height of 8.382 metres. It is finished externally in render and natural stone with a blue/black slate/tile roof. The proposed garage has a stated floor area of 92sqm and an indicated height of 6.448 metres.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided, 13th October 2022, to grant permission subject to 13 no. conditions including a seven-year occupancy, external finishes, use of the garage, landscaping, detailed requirements in relation to the site frontage and

roadside area, construction standards, water connection, wastewater treatment, surface water disposal, construction waste, noise, and development contributions.

3.1.2. The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. There are two planning reports on the file. The first, dated 4th July, recommending further information, includes:

- Located in an area classified as Rural Areas Under Strong Urban Influence & Stronger Rural Areas. SSP-27 applies:
- SSP-27 states Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where conditions can be met including: 1. The applicant has a functional economic or social requirement to reside in this particular rural area. Applicant complies.
- DMS-57 applies to domestic garages.
- The development is unlikely to have significant effects on any European Site.

3.2.3. Other Technical Reports

3.2.4. Edenderry Area Engineer, 10th June 2022 – conditions.

3.2.5. Environment and Water Services, 17th May 2022 – No objection subject to conditions.

3.2.6. Further Information

3.2.7. The further information request, issued 5th July 2022, on three items:

- 1) information to demonstrate that the applicant has resided in an area within 8km of the site for a minimum of 5 years.
- 2) clarify compliance with DMS-57 re. overall height of the garage.
- 3) Invitation to respond to third party observation.

3.2.8. A further information response was received 19th September 2022, including:

- Revised drawings reducing the height of the garage to 5m.
- Details of residency.

3.2.9. The second planning report, dated 13th October, recommending permission, which issued, includes:

- Satisfied with further information responses.

3.3. **Third Party Observations**

3.3.1. A third party observation on the file has been read and noted.

4.0 **Planning History**

This site:

PL2/01/443 – planning permission refused for bungalow and septic tank.

ABP 117761, PA Reg Ref PL2/99/935 planning permission refused by the Board on foot of a PA decision to grant.

Across the road:

ABP 306898 PA Reg Ref 19/482 planning permission refused by the Board on foot of a PA decision to grant. Reason: The proposed development would contribute to urban generated residential sprawl in this area, would contribute to existing ribbon development along this section of roadway, would contribute to the encroachment of random development in this rural area, would militate against the preservation of the rural environment and would lead to an inefficient and uneconomic demand for the provision of services in this rural area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of this area.

Across the road:

222944 P.A. Reg. Ref. 06/1724 planning permission refused by the Board on foot of a PA decision to grant. Reasons: i) housing need criteria and ii) pattern of urban sprawl.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF)

- 5.1.1. National Policy Objective 19 states it is an objective to 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.

5.2. Eastern & Midlands Regional Spatial & Economic Strategy 2019-2031 (RSES)

- 5.2.1. Section 4.2 (Settlement Strategy) – Support the sustainable growth of rural areas by promoting the revitalisation of rural towns and villages, including ready to go regeneration projects coupled with investment where required in local employment and services and targeted rural housing policies, to be determined by local authorities. Section 4.8 (Rural Places: Towns, Villages and the Countryside) states, inter alia in relation to housing, that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth.

Regional Policy Objectives for Rural Areas include RPO 4.77 and RPO 4.78 which, generally, support local authority development plans prioritising the regeneration of rural towns, villages and rural settlements. Policy RPO 4.80 reiterates National Policy Objective 19 where it states that, in Rural Areas Under Strong Urban Influence and Stronger Rural Areas, local authorities shall manage urban generated growth by ensuring that in these areas the provision of single houses in the open countryside is 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.

5.3. Offaly County Development Plan 2021-2027

5.3.1. Offaly County Development Plan 2021-2027 is the operative plan, the following provisions are relevant.

- As shown on Map in Figure 2.5 Open Countryside Housing Policy Map the site is within Rural Areas Under Strong Urban Influence & Stronger Rural Areas, where SSP-27 applies:
- SSP-27 Having regard to the need to protect County Offaly's natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (1-4) can be demonstrated:
 1. The applicant has a functional economic or social requirement to reside in this particular rural area in accordance with (i) or (ii):
 - (i) Economic requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Economic Requirement in County Offaly shall be taken as including persons who by the nature of their work have a functional economic need to reside in the local rural area close to their place of work. It includes persons involved in full-time farming, horticulture or forestry as well as similar rural-based part-time occupations where it can be demonstrated that it is the predominant occupation. The 'local rural area' is defined as the area generally within 8km radius (5km radius particular to Areas of Special Control) of the place of work. Or
 - (ii) Social requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Social Requirement in County Offaly shall be taken as including (a) or (b) below:

(a) The applicant was born within the local rural area, or is living or has lived in the local rural area for a minimum of 5 years (15 years particular to Areas of Special Control) at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local rural area. The 'Local Rural Area' for the purpose of this policy is defined as the area generally within an 8km radius (5km radius particular to Areas of Special Control) of where the applicant was born, living or has lived. For the purpose of this policy, the rural area is taken to include 'Villages' listed in the Settlement Hierarchy, but excludes Tullamore, Birr, Edenderry, Portarlinton, Banagher, Clara, Daingean, Ferbane and Kilcormac (i.e. the Key Town, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Smaller Towns listed in the Settlement Hierarchy. Or

(b) Special consideration shall be given in cases of exceptional health circumstances - supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person.

2. The applicant does not already own or has not owned a house in the open countryside.

3. If the site is located within an Area of Special Control, there is no alternative site outside of Areas of Special Control.

4. High quality siting and design

- DMS-57 applies to domestic garages.

5.4. Natural Heritage Designations

5.4.1. The closest Natura site is the River Barrow and River Nore SAC, located approx. 500 metres, straight line distance to the south.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third party grounds of appeal include:

- This rural area is being turned into a housing estate, 6 houses have already been granted in this laneway.
- This narrow lane provided access to 3 farmers to work on a daily basis.
- The development mitigates against the preservation of the rural environment and creates an urban generated residential sprawl.

6.2. Applicant Response

- 6.2.1. A response on behalf of the applicant was submitted by his agent Robert Barron, it includes:

- The location is not turning into a housing estate. It is over 0.7km long and this dwelling would not lead to over density.
- The design is aligned with rural design guidelines.
- The applicant owns the site and already uses the laneway for regular access. He meets the criteria for SSP-27.

6.3. Planning Authority Response

- 6.3.1. The planning authority requests the Board to support its decision.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment and local need, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

7.3. Local Need

- 7.3.1. The applicant has submitted information regarding compliance with the rural housing policy, ie. that he is from the area. The planning authority considered that the applicant complies with the development plan policy.
- 7.3.2. The planning authority's rural housing policy is set out under Policy SSP-27 of the County Development Plan 2021-2027. The applicant was considered to comply with Local Rural Persons Category 1: a person who was born within the local rural area or who is living or has lived in the local rural area (defined as the area generally within an 8km radius of where the applicant was born or is living) for a minimum of five years and (2) who does not or has not ever owned a house in the open countryside.
- 7.3.3. The applicant may satisfy the rural housing policy as set out in the County Development Plan 2021-2027, however, I do not consider that national or regional policy in relation to rural housing have been met. The NPF and the RSES require that, in rural areas under urban influence or rural areas under strong urban influence, single housing in the countryside shall be provided based on the core consideration of demonstrable economic or social need to live in a rural area. The proposed site is located in one of these areas as evidenced by its location in an area of 'strong urban influence' Figure 2.1 Rural Area Types in County Offaly. In my opinion the applicant has not demonstrated economic or social need to live in this rural area at the edge of

the nearby town. To permit the development would therefore contravene national and regional policy in relation to rural housing.

8.0 Recommendation

- 8.1. In accordance with the foregoing I recommend that the planning application be refused for the following reason and consideration.

9.0 Reasons and Considerations

The proposed development would contribute to urban generated residential sprawl, militating against the preservation of the rural environment, and would lead to inefficient and uneconomic demands for the provision of services. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Planning Inspector

14th July 2023

Appendi

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Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027, extracts.

Appendix 3 Eastern & Midlands Regional Spatial & Economic Strategy 2019-2031 (RSES), extracts.

Appendix 4 National Planning Framework, extracts.