

An  
Bord  
Pleanála

## Inspector's Report ABP-315899-23

<b>Development</b>	Construct a proposed dwelling house, domestic garage, septic tank treatment system, percolation area, new site entrance and all associated site works.		
<b>Location</b>	Ballybrittas, Co. Laois		
<b>Planning Authority Ref.</b>	22/565.		
<b>Applicant(s)</b>	Karen Kehoe.		
<b>Type of Application</b>	Permission.	<b>PA Decision</b>	To Grant Permission.
<b>Type of Appeal</b>	Third Party.	<b>Appellant</b>	Anthony Behan.
<b>Observer(s)</b>	None.		
<b>Date of Site Inspection</b>	15 <sup>th</sup> March, 2024.	<b>Inspector</b>	Aiden O'Neill.

### Context

#### 1. Site Location/ and Description.

The proposed development site is c. 0.3769ha in area and is greenfield, forming part of a larger, open, relatively flat, field in a rural area c. 760m to the north-west of Ballybrittas village. The site is located to the north of the L-7156 strategic local primary road. This road is relatively straight along the boundary of the proposed development site, but bends sharply to the south-east in the direction of Ballybrittas village. The proposed development site is bounded to the south by an existing hedgerow, and there is an existing field entrance. A utility pole and solar-

powered traffic speed sign are also located along the southern boundary. There is a recently constructed two-storey dwelling located to the west, with a further 3no. dwellings located further west. The single-storey Ashgrove House is located to the east. There is a two-storey dwelling, as well as a dormer dwelling, on the opposite side of the road. There are also a number of dwellings located further west along the opposite side of the road.

## **2. Description of development.**

Permission is sought for the construction of a proposed single-storey 4-bedroom dwelling house, single-storey domestic garage (35m<sup>2</sup>), septic tank treatment system, percolation area, new site entrance and all associated site works.

The proposed dwelling is 186.7m<sup>2</sup> in area and is c. 5.42m in height to ridge level (2.85m to eaves level). The proposed dwelling is generally rectangular in plan, except for a projecting full length living/kitchen/dining area. Finishes include napped plaster with natural stone cladding detail around the entrance door and living room, with natural slate roof covering.

The existing front hedgerow to the site is to be removed and replaced with a new, set back timber post and three-rail fence with native hedgerow. This treatment is proposed to all new boundaries, with the existing boundary to the east to be retained and supplemented.

The proposed dwelling is to be served by public mains. A new precast concrete septic tank with mounded percolation area (6no. trenches) is proposed to the west of the proposed development site. 3no. soakaways are located to the north-west.

It is stated that the applicant qualifies under Table 4.4 a) of the Laois County Development Plan 2021-2027 with respect to rural housing need, i.e., a) the application is being made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands. It is stated that the applicant and her family have a long history associated with the area. It is stated that letters of support are included from Killenard NS, the local parish priest and the local GAA club.

The application was lodged on 12<sup>th</sup> September, 2022. A Request for Further Information dated 2<sup>nd</sup> November, 2022 requiring a pre-connection enquiry from

Uisce Éireann and clarification on how the appropriate sight lines in both directions are achieved , as well as confirmation of the extent of hedgerow removal required to facilitate appropriate sight lines from the south-east.

A response was submitted on 29<sup>th</sup> December, 2022, comprising a Confirmation of Feasibility from Uisce Éireann and drawings showing a clear line of sight 160m to the north-east and 145m to the south-east. It is also stated that a rear end sight line of 150m is achieved when part of a hedge on the opposite side of the road is reduced in height. A letter of consent from the landowner on the opposite side of the road agreeing to the reduce and keep their hedge at 1.2m in height has been submitted.

The applicant is stated to be the owner of the proposed development site, however, there is a letter of consent from the landowner included with the planning application.

### **3. Planning History.**

There is no recent planning history for the proposed development site.

Permission was granted for a two-storey dwelling to the west of the proposed development site under PA Ref. No. 20/48, which has now been constructed.

### **4. National/Regional/Local Planning Policy (see attached)**

- By reference to Map 4.1 of the Laois County Development Plan 2021-2027, the proposed development site is located in a Rural Area Under Strong Urban Influence.
- Table 4.4 of the Plan states that it is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as 'rural areas under strong urban influence'. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and normal proper planning and sustainable development criteria:
  - a) the application is being made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands; or
  - b) the applicant is engaged in working the family farm and the house is for that persons own use; or

- c) the applicant is working in rural activities and for this reason needs to be accommodated near their place of work; or
- d) the application is being made by a local rural person(s) who have spent a substantial period of their life living in the local rural area, and, who for family and/or work reasons need to live in the rural area.
- Policy Objective DM RH 1 with respect to new dwelling houses in rural areas, sets out a range of criteria will be used to assess if a rural site is acceptable in principle for a dwelling house. The criteria are detailed in Appendix 7: Rural Design Guidance.
- Policy Objective RH 18 seeks to discourage ribbon development (defined as five or more houses alongside 250 metres of road frontage).
- Section 4.6.3 of the Plan states that in all cases new sites should not contribute to ribbon development along roads or within undeveloped areas between existing building clusters. Any prospective site that would exacerbate ribbon development, or lead to the coalescence of existing ribbon development, should be avoided. 'Ribbon development' is defined as 5 or more houses on either side of a given 250m of road frontage.
- Policy Objective DM TRANS 2 states that where sightlines are inadequate and would give rise to a traffic hazard, development will not be permitted.

## **5. Natural Heritage Designations**

- The River Barrow and River Nore SAC (002162) is located c. 4.6km to the east of the proposed development site. Derries Wood pNHA (000416) is located c. 1.04km to the south. Emo Court pNHA (000865) is located c. 2.8km to the west.

## **Development, Decision and Grounds of Appeal**

### **6. PA Decision.**

The Planning Authority decided to grant permission by Order dated 26<sup>th</sup> January, 2023 subject to 14no. conditions.

The planner's report is the basis for the Planning Authority's decision to grant planning permission.

Condition no. 2(a) requires the proposed dwelling, when completed, to be first occupied by the applicant and shall remain so occupied for a period of seven years thereafter.

Condition no. 7(b) requires adequate sightlines of 160m to the northeast and 145m to the southeast to be created and maintained in both directions at the site entrance. The sight distances shall be measured from a point 2.4m in from the road edge and from a driver's eye height of 1.05 metres to an object height of 1.15 metres.

### **7. Third Party Appeal.**

1 no. Third Party appeal has been submitted, setting out the following grounds:

- The ditch to be reduced in height is on the appellant's property, not the neighbours, and therefore the neighbour cannot guarantee that this height will be maintained.
- The proposed development will impact the appellant's ability to enter his property. If anyone has to stop to enter the proposed site due to oncoming traffic, traffic will build up behind them on a dangerous bend. An image is provided which illustrates that without the ditch being reduced, required sightlines cannot be achieved. A further image is provided showing the effect of vehicles backing up behind a car turning into the proposed development site at the blind corner.
- Traffic moves at speed along this road. Vehicles will struggle to stop in time, leading to more traffic accidents on the bend.
- The appeal has been made in the interests of safety.
- Refusal of permission is requested.
- The appeal includes a copy of a letter from a Concerned Local Pedestrian, noting the following points:
  - The applicant claims to be the owner, but there is consent from the landowner.
  - The proposed development presents ribbon development.

- No response appears on the file from the Roads Department and the Engineer appears to be silent on the matter of road safety.
- Sightline directions are confusing. Hedgerow removal is required on both sides of the road.
- The drawings do not represent the actual road curvature.
- Concern that the Planning Authority accepts a consent from a neighbouring landowner to cut back a hedgerow and keep it cut back could be withdrawn at any time and is not legally binding. There is no option but to refuse permission unless the Planning Authority are prepared to purchase the lands and remove the bends and blind corner on the road.

### **Applicant's Response**

- The response of the applicant's agent dated 21<sup>st</sup> March, 2023 includes details of the folio of the landowners who have given consent to maintain their hedge at 1.2m;
- It is stated that the appellant has removed his hedgerow for the extent of his property, therefore it does not need to be cut back.
- There is no basis for the statement that the proposed development will impact the appellant's ability to enter his property without impedance.
- The applicant has clearly demonstrated that sightlines are achievable, and this has been accepted by the Planner.
- The maintenance of the hedge will clearly benefit the appellant.
- The document submitted by third parties is spurious.
- The response also includes a letter from the applicant, stating that the proposed development site is owned by her uncle, previously her grandfather and his parents before then. The applicant's mother and father's family has lived in the area for over 100 years.
- The applicant has a daughter and is expecting her second child. She intends to send her children to the local school where she also attended.

She notes that her application included letters of support from the local school, the parish priest and the local GAA club.

- The photos provided by the appellant are not where the proposed access is to be located. Sightlines are clearly achieved. The corner is not blind.
- The photos in the letter from the Concerned Local Pedestrian are from google maps and dated 2009. This letter should not be considered. The appeal is vexatious.

#### **8. PA Response**

- None on file.

### **Environmental Screening**

#### **9. EIA Screening**

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

#### **10. AA Screening**

Having regard to the modest nature and scale of development, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **2.0 Assessment**

2.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

2.2. The main issues are as follows:

- Road Safety
- Compliance with the Development Plan

## 2.3 Road Safety

2.3.1 The principal appeal issue is the concern over the inclusion in the application of a reduction in, and maintenance of, the height of an existing hedgerow on the opposite side of the road in order to achieve appropriate sightlines from the south-east. This hedgerow is in the ownership of a Third Party. The Third Party has consented to the reduction in height and maintenance of same. The appellant is concerned that, as this is not legally binding, the agreement could be withdrawn at any time, and that road safety will be compromised as a result.

2.3.2 The appellant is also concerned that the proposed development will impact his ability to enter his property. The public road is busy and traffic moves at speed. If anyone has to stop to enter the proposed development site, there will be a build up of traffic on a dangerous bend. The appellant contends that if the hedgerow is not reduced, the required sightlines cannot be achieved.

2.3.2 The Planning Authority sought clarification through a Request for Further Information on how the required sightlines could be achieved. The applicant responded with 2no. drawings illustrating the required sightlines in a north-easterly and south-easterly direction. The latter drawing, 22.204-FI-02 illustrates a 145m sight line and a 150m rear end sight line, as well as annotated photos of a hedge on the opposite side of the road to be reduced to 1.2m to achieve forward visibility of 150m in the direction of the proposed development site, and 120m in the direction of Ballybrittas. A letter from the landowner from the opposite side of the road consenting to the reduction in height of a section of hedgerow on that side of the road, and maintenance of same in order to achieve the required sightlines in a south-easterly direction is also included. The sightlines to the north-east are not at issue. The Planning Authority granted permission on this basis, with a condition requiring adequate sightlines of 160m to the northeast and 145m to the southeast to be created and maintained in both directions at the site entrance, with the sight distances to be measured from a point 2.4m in from the road edge and from a driver's eye height of 1.05 metres to an object height of 1.15 metres.



- 2.3.3 The appellant's concerns are raised in the context of the existing substandard alignment of the public road to the immediate south-east of the proposed development site. It is my observation that the road bends sharply for a stretch of c. 160m beyond the proposed development towards Ballybrittas. In addition, as observed on site, this road, which is strategic local primary road, is busy, and traffic travelling from the south-east does move at speed.
- 2.3.4 I also note that the proposed access to the proposed dwelling is located close to where the bend in the road starts.
- 2.3.3 I would share the appellant's concerns about the potential for a traffic hazard arising from the proposed development if the hedgerow on the opposite side of the road to the south-east is not reduced in height, and if this reduced height is not maintained into the future.
- 2.3.4 It is noted that there is no legal agreement to reduce the height of this hedge and maintain this height.
- 2.3.5 In this context, I consider that the proposed development, as currently configured, at a location close to a sharp bend, requiring mitigation which is outside the control of the applicant, with no formal agreement in place to maintain same, has the potential to result in a traffic hazard on the busy L-7156 strategic local primary road. I recommend a refusal of permission on the basis that the proposed development is contrary to policy objective DM TRANS 2, which states that where sightlines are inadequate and would give rise to a traffic hazard, development will not be permitted.
- 2.4 Compliance with the Development Plan
- 2.4.1 The applicant has provided evidence to satisfy the requirements of rural housing policy as set out in Table 4.4 of the Laois County Development Plan 2021-2027. I do not dispute the applicant's ties with the local area in which she wishes to build her first house.
- 2.4.2 I also consider that the design of the proposed dwelling is in keeping with Policy Objective DM RH 1 of the Laois County Development Plan 2021-2027, and, apart from the location of the proposed access, is generally consistent with Appendix 7 of the Plan in relation to Rural Design.

- 2.4.3 However, I do have a concern that the proposed development, if permitted, would contribute to ribbon development along the L-7156 strategic local primary road. It is noted that this issue is not addressed in the planner's report.
- 2.4.4 There are already 4no. dwellings on the northern side of the public road, and 3no. dwellings on the southern side of the public road, a total of 7no. dwellings. The proposed dwelling would result in 5no. dwellings on the northern side of the public road within a 250m stretch of road frontage.
- 2.4.5 Section 4.6.3 of the Laois County Development Plan 2021-2027 states that in all cases new sites should not contribute to ribbon development along roads or within undeveloped areas between existing building clusters. 'Ribbon development' is defined as 5 or more houses on either side of a given 250m of road frontage. Any prospective site that would exacerbate ribbon development, or lead to the coalescence of existing ribbon development, should be avoided.
- 2.4.6 This is endorsed by policy objective RH 18, which seeks to discourage ribbon development. In assessing whether the proposal will exacerbate ribbon development, the policy objective RH 18 gives consideration to:
- (i) The type of rural area and circumstances of the applicant – the proposed development site is located in a Rural Area under Strong Urban Influence. The proposed development site is owned by an uncle of the applicant, not an immediate family member.
  - (ii) The degree to which the proposal might be considered infill development – given the location of the site relative to the public road, which bends sharply beyond the proposed development site, it is not considered that the proposed development constitutes infill development, but rather the end site along the stretch of public road before the bend
  - (iii) The degree to which existing ribbon development would coalesce as a result of the proposed development – the proposed development site would result in ribbon development occurring.
  - (iv) Local circumstances, including the planning history of the area and development pressures – the most recently permitted and constructed dwelling – the 4<sup>th</sup> in a row of individual dwellings - is located to the west of the proposed development site. As

noted above, the proposed development site is located in a Rural Area Under Strong Urban Influence.

2.4.7 It is also noted that policy objective RH 18 also states that: notwithstanding the above (i.e. (i) – (iv), special regard will be given to the circumstances of immediate family members of a landowner on single infill sites in a line of existing dwellings with 5 or more houses along a 250 metres of road frontage. It is considered that the landowner of the proposed development, who is the applicant's uncle, is not an immediate family member, and, as noted above, the proposed development site is not an infill site.

2.4.8 In this context, the addition of the proposed dwelling on this 250m stretch of road frontage would, therefore, constitute an undesirable pattern of ribbon development, which is contrary to policy objective RH 18 of the Laois County Development Plan 2021-2027.

### **3.0 Recommendation**

3.1. I recommend that permission for the development be refused for the following reasons and considerations.

### **4.0 Reasons & Considerations**

1. It is considered that the proposed development would endanger public safety by reason of a traffic hazard by reason of the additional turning movements the development would generate on a substandard road network at a point where sightlines are restricted in a south-easterly direction. In this context, the proposed development would materially contravene policy objective DM TRANS 2 of the Laois County Development Plan 2021-2027, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would constitute undesirable ribbon development in a rural area outside lands zoned for residential development. In this context, the proposed development would materially contravene policy objective RH 18 of the Laois County Development Plan 2021-2027 would, therefore, be contrary to the proper planning and sustainable development of the area.

## **Relevant Policies**

### **Laois County Development Plan 2021-2027**

By reference to Map 4.1 of the Plan, the proposed development site is located in a Rural Area Under Strong Urban Influence.

Table 4.4 of the Plan defines these areas as those rural areas within easy commuting distance of the main urban centres in County Laois and adjacent counties including the GDA 6 which are experiencing pressure from the development of urban generated housing in the open countryside.

Table 4.4. further states that Continued high levels of single rural houses in these locations would inhibit the growth of the County's urban areas which would result in a failure to achieve the growth targets. It would also cause further deterioration of rural amenities. The key development plan objectives in these areas seeks to facilitate the genuine housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in towns and village.

The Table also states that it is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as 'rural areas under strong urban influence'. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and nor mal proper planning and sustainable development criteria.

It is an objective of the Council only to permit single houses in the area under strong urban influence to facilitate those with a local rural housing need in the area, in particular those that have lived in a rural area. In order to demonstrate a genuine rural housing need, any of the following criteria shall be met:

a) the application is being made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands; or

- b) the applicant is engaged in working the family farm and the house is for that persons own use; or
- c) the applicant is working in rural activities and for this reason needs to be accommodated near their place of work; or
- d) the application is being made by a local rural person(s) who have spent a substantial period of their life living in the local rural area, and, who for family and/or work reasons need to live in the rural area.

Appendix 7 of the Plan sets out the Planning Authority's rural design policies, to include:

- There should be a concentration on sites which offer variations in landform and topography and have mature vegetation in the form of trees and ditches that enable buildings to be readily absorbed into the receiving landscape.
- In all cases new sites should not contribute to ribbon development along roads or within undeveloped areas between existing building clusters. Any prospective site that would exacerbate ribbon development, or lead to the coalescence of existing ribbon development, should be avoided. 'Ribbon development' is defined as 5 or more houses on either side of a given 250m of road frontage.
- Entranceways should be kept to a minimum width - with sight lines designed according to standards set out in the County Development Plan.

Section 4.6.3 of the Plan sets out the following with respect to ribbon development:

The Planning Authority will have regard to the publication Sustainable Rural Housing Guidelines for Planning Authorities [DoEHLG, 2005] in dealing with planning applications involving cases of ribbon development. These guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts. Other forms of development, such as clustered development, well set back

from the public road and served by an individual entrance can be used to overcome these problems in facilitating necessary development in rural areas. In assessing individual housing proposals in rural areas the planning authority will therefore in some circumstances need to form a view as to whether that proposal would contribute to or exacerbate ribbon development. Taking account of the above and the dispersed nature of existing housing in many rural areas, areas characterised by ribbon development will in most cases be located on the edges of cities and towns and will exhibit characteristics such as a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage. Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:

- The type of rural area and circumstances of the applicant,
- The degree to which the proposal might be considered infill development,
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.

Policy Objective DM RH 1 with respect to new dwelling houses in rural areas, sets out a range of criteria will be used to assess if a rural site is acceptable in principle for a dwelling house. The criteria are detailed in Appendix 7: Rural Design Guidance.

New dwellings in the countryside require the following:

a) 30 metres of road frontage, unless a considerable set-back from the roadway exists.

B) Minimum 0.202 hectares (0.5 acres) of site area.

C) Sightlines at the proposed entrance must comply with Laois County Council Parking and Roads Standards indicated in Chapter 10 of the Plan and must be achieved within the boundary of the site only. Excessive removal of hedgerow to achieve adequate sightlines is unacceptable.

- D) The location and design of a new dwelling shall take account of and integrate appropriately with its physical surroundings and the natural and cultural heritage of the area and respect the character of the area.
- E) Appropriate landscaping of proposed development using native species.
- F) The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing development in the area, the extent of ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding.
- G) In the interests of protecting the biodiversity of the rural areas, the ability to provide safe vehicular access to the site without the necessity to remove extensive stretches of native hedgerow and trees. The need for the removal of extensive roadside hedgerow may indicate that the site is unsuitable for development.
- H) The ability of a site in an unserviced area to accommodate an on-site waste water disposal system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2009), the County Laois Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.
- I) The ability of a site in an unserviced area to accommodate an appropriate on-site surface water management system in accordance with the policies of the Greater Dublin Strategic Drainage Study (2005).
- J) The need to comply with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities, DEHLG (2009).
- K) Floodlighting of single family dwellings or the lighting of private roads in rural areas will not be accepted.

Policy Objective DM RH 4 in respect of wastewater treatment (unsewered properties) states that the Council will ensure that:

- only on-site wastewater treatment systems that are of a suitable design and located in a suitable area will be permitted;
- the provision of wastewater treatment for single houses meets with the requirements of the EPA Code of Practice 2009 and any subsequent updates; and the use of alternative wastewater treatment systems for un-sewered

properties, such as wetlands and reed beds and the need for tertiary treatment of wastewater will be considered on a case-by-case basis.

Policy Objective RH 18 seeks to discourage ribbon development (defined as five or more houses alongside 250 metres of road frontage). The Council will assess whether a given proposal will exacerbate such ribbon development, having regard to the following: (i) The type of rural area and circumstances of the applicant; (ii) The degree to which the proposal might be considered infill development; (iii) The degree to which existing ribbon development would coalesce as a result of the proposed development; (iv) Local circumstances, including the planning history of the area and development pressures. Notwithstanding the above, special regard will be given to the circumstances of immediate family members of a landowner on single infill sites in a line of existing dwellings with 5 or more houses along a 250 metres of road frontage.

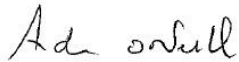
Policy Objective DM TRANS 2 states that sightline requirements are determined by the Council having regard to Laois County Council Roads and Parking Standards (2007) guidelines (and any and in exceptional circumstances on a case by case basis. Factors including the type, speed limit and condition of the road shall be taken into consideration: Where sightlines are inadequate and would give rise to a traffic hazard, development will not be permitted.

In cases where an access already exists with inadequate sightlines, it is Council policy to recommend the closing up of this entrance and to facilitate another entrance with adequate sightlines. All applications for planning permission must clearly indicate the sightlines available at the proposed access within the boundary of the site.

Table 2.2 of the Laois County Council Roads and Parking Standards (2007) guidelines states that strategic local primary roads are required to have 160m sight distance in both directions.



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.



---

Aiden O'Neill  
Planning Inspector

25<sup>th</sup> March, 2024