



An
Bord
Pleanála

Inspector's Report ABP316058-23

Development

(A) Construction of a 3 bedroom single storey dwelling (B) single storey domestic garage (c) on site wastewater treatment system along with all associated site development, facilitating and landscaping works

Location

Bryanstown, Kilcock, Co. Meath

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

23/1

Applicants

Kathleen and Bernard Cooke.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party

Appellants

Kathleen and Bernard Cooke

Observers

None

Date of Site Inspection

11th July 2023

Inspector

Trevor Rue

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1.0 Site Location and Description

- 1.1. The application site is located in open countryside about 2 kilometres to the north east of Kilcock, County Kildare. It is accessed off local road L6221.
- 1.2. The site has a stated area of 0.32 hectares. It is a four-sided area in the corner of a larger field. It has a road frontage of 49.6 metres, along which there is a low hedge and fence, with a field gate at the northern extremity. The north-western boundary, which extends back from the road by 57.3 metres, is marked by more substantial hedging including several tall trees. The south-western and south-eastern boundaries are undefined.
- 1.3. An L-shaped bungalow occupies a 0.54 hectare plot on the roadside to the south east, close to but not contiguous with the application site. Roughly 300 metres further to the south east, there is another roadside bungalow, followed by a 190-metre long entrance driveway to Cookes Farm, where the applicants' current residence, a substantial two-storey red-brick house, together with stables, outbuildings and stands of mature trees are arranged in a generally circular formation.

2.0 Proposed Development

- 2.1. Permission is sought for construction of a three-bedroom single storey dwelling and a single storey domestic garage, for a waste water treatment system and a recessed entrance and for associated site development, facilitating and landscaping works.

3.0 Planning Authority Decision

3.1. Decision

Meath County Council **refused** permission on 28th February 2023 for the following reason:-

The proposed development is located within a rural area under strong urban influence where it is a requirements for applicants to:

(i) comply with the Local Needs Qualifying Criteria as outlined in Section 9.4 of the Meath County Development Plan 2021 - 2027 and to

(ii) demonstrate a rural housing need.

It is considered, based on the information submitted, that the applicant has not established a site specific rural generated housing need for a dwelling at this location.

The proposed development would therefore be contrary to the policy of the Sustainable Rural Housing Guidelines for Planning Authorities and the Meath County Development Plan 2021-2027 and would, therefore, be contrary to the proper planning and sustainable development of the area and would establish a very undesirable future precedent.

3.2. Planning Authority Reports

3.2.1. The **planning officer's report** of 27th February 2023 provided the reasoning for the authority's decision. He described the site and set out the relevant policy provisions. Among the key planning considerations he identified were siting and design, rural housing need and waste water treatment. He reached the following conclusions relevant to these matters:-

- A gap site would be created to the east of the application site. This was not encouraged by the planning authority and it was recommended that in any future application this area be included within the application site boundary.
- The proposed design of the dwelling and domestic garage are in accordance with the Meath Rural House Design Guide.
- The applicants had stated a need for a single storey dwelling due to health circumstances but they had submitted very little information to justify the need for a second dwelling. It had not been explained why the current dwelling could not be adapted for their needs.
- The proposed waste water treatment system and percolation area were acceptable, subject to be constructed in accordance with the site characterisation report and the relevant code of practice.

3.2.2. The Council's **Transportation Planning Section** stated that adequate sightlines were available from the proposed entrance. The Section had no objection to the proposed development subject to conditions requiring the provision and maintenance of the sightlines, the positioning of entrance piers and the road entrance gate and the provision of road drainage in compliance with the relevant guidance.

4.0 Planning History

None

5.0 Policy and Context

5.1. Development Plan

5.1.1 Chapter 9.0 of the **Meath County Development Plan 2021 to 2027** is titled Rural Development Strategy. Section 9.2 refers to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in April 2005 and to a circular SP5/08 which provides advice and guidance in relation to local need and occupancy conditions. The goal of the development plan's rural settlement strategy is to ensure that rural generated housing needs are accommodated in the areas they arise, subject to satisfying good practice in relation to site location, access, drainage and design requirements, and that urban generated rural housing needs should be accommodated within built-up areas or land identified through the development plan process.

5.1.2. Map 9.1 of the development plan indicates that the application site is in a Rural Area under Strong Urban Influence, where, as set out in Section 9.3, the following policies apply:-

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.

5.1.3. Section 9.4 of the development plan states that the planning authority will support proposals for individual dwellings on suitable sites in rural areas where the applicant can clearly demonstrate a genuine need for a dwelling on the basis of significant involvement in agriculture or significant employment in the bloodstock and equine industry, agri-tourism or horticulture sectors.

5.1.4. Section 9.4 goes on to say that exceptional health circumstances may require a person to live in a particular environment or close to family support. In such cases, the exceptional health circumstances would require supporting documentation from a registered medical practitioner and a disability organisation. In the absence of any significant environmental, access or traffic reasons for refusal and [provided] the

proposal adheres to sensitive design and siting criteria, the planning authority will consider granting planning permission, subject where appropriate to conditions regarding occupancy.

5.1.5. Section 9.4 also says that where an applicant has resided in a rural area for a considerable period of time, being a period of time in excess of the previous 10 consecutive years, in a dwelling attached to their business, such as farming, and the business inclusive of dwelling house is being sold for retirement or other circumstances, such applications will be considered on their individual merits, where the applicant satisfies local housing need criteria. The planning authority will facilitate pre-planning consultation in such circumstances.

5.2. Natural Heritage Designations

Map 8.3 of the Meath County Development Plan indicates that no part of the application site or its surroundings is covered by a natural heritage designation.

5.3. EIA Screening

The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an environmental impact assessment report and carrying out of an environmental impact assessment may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The applicants are happy to extend the application site to take in the ground between it and the neighbouring dwelling or to enter into an agreement with the Council permanently to freeze this ground from any future applications.

6.1.2. The application submitted to Meath County Council included three separate letters from Kathleen Cooke's doctors and specialist outlining her medical condition and the need for a different dwelling to suit her needs. These experts noted that she has had a pacemaker fitted, suffers from balance problems and dizziness, seizures and asthma, all of which would be greatly helped by her having more acceptable housing. The proposed single storey dwelling would help her to have a more manageable quality of life. There is a distinct possibility that she will soon need to use a wheelchair

and her current home will not allow proper access because of unsuitable door widths, turning areas, circulation space and access steps.

6.1.3. The ground floor access door has been in place for 30 years and its removal would cause unnecessary hardship and suffering for the occupants of the home as it is the only ground floor access to the property. The main house is accessed both to the front and rear by two steps 450 millimetres high.

6.1.4. The applicants currently run Bryanstown Stud Farm. Given their age and medical circumstances, they reluctantly wish to retire from this business but to build and live on a site within their current land holding. The existing stud business has stables and outbuildings built round their current two-storey residence and they could not remain in that house if they retired and sold the property. The applicants would be happy to have an occupancy condition added to any permission as they wish to remain in the local community where they have lived for the past 46 years.

6.2. Planning Authority Response

6.2.1. The planning authority was satisfied that all relevant matters outlined in the applicants' appeal submission were considered in the course of its assessment of the planning application as detailed in the planning officer's report.

7.0 Assessment

7.1. Issues

7.1.1. Having inspected the site and considered in detail the documentation on file for this First Party appeal, it seems to me that the single planning issue is whether a rural generated site-specific need for the proposed dwelling has been established. I must also consider whether an appropriate assessment (AA) is required pursuant to the European Union Habitats Directive (92/43/EEC).

7.2. Rural Housing Need

7.2.1. The application as first presented was based primarily or wholly on Mrs Kathleen Cooke's medical circumstances. I agree with the planning authority that the information provided was insufficient to establish a site-specific rural need. The applicants did not explain why in their view other options, such as adapting their existing house, purchasing an existing single storey dwelling in the area, or moving to

a nearly settlement, were not feasible. I consider that on the information available to it the planning authority's decision to refuse the application was justified.

7.2.2. While I was making notes at the entrance to the applicants' current residence, their son drove up. When I introduced myself, he gave me the very sad news that his mother, Mrs Kathleen Cooke, had just passed away.

7.2.3. In his covering letter at the time the application was made, the applicants' architect did not mention retirement. He stated that his clients had lived on Bryanstown Stud for 46 years. He said that if the application were granted, it would allow them to continue their lives in the local community and continue to take an active part in the running of the stud farm, which is their life's work.

7.2.4. The grounds of appeal presented a new argument, namely that the applicants wished to retire from their stud farm business. The planning authority did not take the opportunity to comment on this argument.

7.2.5. The evidence indicates that the surviving applicant has resided in this rural area for 46 years in accommodation associated with his business. There is an intimate relationship between his existing house and buildings in use for the stud business. However, it is not clear from his evidence whether he intends to sell or transfer the business as a going concern and if so whether he proposes to include his existing house in any disposal. If the house were to be occupied by someone not involved in the stud farm, that could potentially generate a need for another dwelling in the countryside. It has not been demonstrated that all the requirements of Section 9.4 of the development plan relating to the sale of a business for retirement are fulfilled.

7.2.6. I conclude that the information provided at application stage, taken together with that provided at appeal stage, is insufficient to establish a site-specific rural need.

7.3 **Appropriate Assessment Screening**

According to the planning officer's report, the application site is not located in close proximity to any designated Natura 2000 site. Having regard to the nature and scale of the proposed development, the nature and scale of the foreseeable discharges therefrom and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of a Natura impact statement and the carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

It is considered, based on the information submitted, that the applicants have not established a site-specific rural-generated need for a dwelling at this location. The proposed development would therefore be contrary to the Meath County Development Plan 2021 to 2027, to the Sustainable Rural Housing Guidelines for Planning Authorities and to the proper planning and sustainable development of the area. It would also create an undesirable precedent.

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.



TREVOR A RUE

Planning Inspector

13th July 2023