



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318788-24

<b>Development</b>	Construction of house, detached garage, new wastewater treatment system and percolation area and all associated site development works..
<b>Location</b>	Stokestown, Dunboyne, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	23699
<b>Applicant(s)</b>	David Barron
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Herbert Jordan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	02/03/24
<b>Inspector</b>	Adrian Ormsby

## **1.0 Site Location and Description**

- 1.1. The site is located in a rural area and townland of Stokestown in County Meath c.3km north east of Dunboyne. The site is located on a private road<sup>1</sup> just off the local road (L-5026) c. 1.3km east of the R147 regional road from Clonee to Dunshaughlin. The junction of the local road and regional road is located parallel to the M3 Motorway.
- 1.2. The site is located on the eastern side of a private cul de sac road which serves three existing house on the west side. The wider local area is characterised by a number of individual one off house with the cul de sac providing a clustering effect.
- 1.3. The site itself is a green field largely flat with an existing agricultural entrance gate. It is bound to the south by a site with an existing house with a low boundary wall and mature hedging.
- 1.4. The site has a stated area of 0.2042 ha.

## **2.0 Proposed Development**

- 2.1. The application comprises-
  - Construction of a storey and a half style dwelling with single storey side annex- main ridge height 7.204m and floor area of 202.92 sq.m
  - detached garage- ridge height of 5.284m and floor area of 73.86 sq.m
  - wastewater treatment system and percolation area and
  - all associated site development works.
- 2.2. The Planning Authority sought Further Information (FI) on the 01/09/23 in relation to-
  - Revisions to design to include setting it back to align with building line to the immediate south
  - A justification for a garage of 73 sq.m at this location
  - Proposals to achieve sightlines, provision of a footpath and entrance details requirements

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<sup>1</sup> The landholding map submitted with the application outlines the road in blue.

- Surface water drainage proposals
- Address third party submissions

2.3. A Response to FI was received on the 20/10/23. This was deemed Significant and readvertised accordingly with copies of public notices submitted on the 02/11/23.

2.4. The FI response detailed-

- The house and garage are set back accordingly to align with dwelling to south
- The garage has been reduced to 49.5 sq.m
- A revised drawing with entrance requirements in accordance with the FI
- A Surface Water drainage proposal was submitted including a report with infiltration test results. A Flood Risk Assessment report was also submitted.
- Address third party submissions

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to grant permission on the 29/11/23 subject to 11 conditions generally off a standard nature for such applications. The following conditions are relevant to this appeal-

- Condition 1- *The development shall be constructed in accordance with the plans and particulars lodged with the Planning Authority on 11/07/2023 and 20/10/2023 except where conditions hereunder specify otherwise. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.*

*Reason: In the interests of the proper planning and development of the area.*

- Condition 3-  
*(a) The general design of the dwelling and garage building shall be as shown on plans submitted on 11/07/2023 and 20/10/2023 unless otherwise agreed in*

*writing with the Planning Authority prior to the commencement of development. The use of brick or reconstituted stone shall not be permitted.*

*(b) The proposed finished floor level (FFL) of the dwelling and garage shall be a minimum of 300mm above the existing footpath level alongside the front of the site.*

*(c) The roof of the dwelling and garage shall be dark grey or blue/black slate. Finishes are to be agreed in writing with the Planning Authority prior to commencement of development.*

*Reason: In the interests of visual amenity and in order to comply with the Rural Design Guide contained as Appendix 13 in the Meath County Development Plan 2021-2027.*

## **4.0 Planning Authority Reports**

### **4.1. Planning Reports**

The two Planning Reports generally reflects the decision of the Planning Authority.

### **4.2. Other Technical Reports**

- Environment Flooding- Surface Water Section-
  - 30/08/23- No flooding objections. Conditions recommended for surface water. (Noted this is dated after first Planning Report but before the FI request)
  - 24/11/23- The development is in flood zone C, no objection subject to the FFL to be a minimum 300mm above existing ground level alongside front of the site. Conditions recommended for surface water.
- Transportation-
  - The first Planning Report refers to a Transportation Report but I cannot identify it on the file. The planning report indicates there were no objections subject to conditions but as FI was been requested it was appropriate to address same.

- 28/11/23- No objection subject to conditions

#### **4.3. Prescribed Bodies**

- Irish Water/Uisce Éireann-
  - 04/08/23- No objections subject to typical conditions
- Dublin Airport Authority-
  - 17/08/23- A condition is requested requiring noise sensitive uses to provide noise insulation having regard to sites location within Noise Zone C of Dublin Airport.

#### **4.4. Third Party Observations**

4.4.1. Four third party observations were received on the application. The pertinent issues raised can be summarised as follows-

- Inadequate Water pressure in the area
- Flooding along the entrance road and at the site
- Concerns over proposed wwtp and separation distances
- Proximity of proposal to neighbouring property
- Excessive scale of garage
- Concern in relation to damage to the road, maintenance requirements and liability
- Absence of public lighting on the road
- Parking and congestion concerns along the road
- Loss of mature trees

4.4.2. A further four observations were received on the Significant FI submission. The contents of same is generally consistent with previous observations and includes some commentary on the FI response. New issues include specific reference to impacts upon privacy of property to south.

#### 4.5. Representations

- Councillor Conor Tormey
  - 31/08/23- in support of application

#### 5.0 Planning History

- None recent

#### 6.0 Policy Context

##### 6.1. Meath County Development Plan 2021-2027

6.1.1. Chapter 9 of this Plan 'Rural Development Strategy' sets out the settlement policy in respect of rural areas in the County. The following policies are relevant-

- RUR DEV SP 1

*To adopt a tailored approach to rural housing within County Meath as a whole, distinguishing between rural generated housing and urban generated housing in rural areas recognising the characteristics of the individual rural area types.*

- 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.*

6.1.2. Section 9.3 outlines Rural Area Types as displayed in Map 9.1 (Volume 3 of CDP). The site is located in Area 1 - *Rural Areas under Strong Urban Influence*. The following policies are relevant-

- 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.*

6.1.3. Section 9.4 outlines the criteria by which applicants can demonstrate they are Persons who are an Intrinsic Part of the Rural Community.

6.1.4. Section 9.5 outlines such development assessment criteria.

6.1.5. Chapter 11 sets out Development Management Standards.

## **6.2. Natural Heritage Designations**

The site is-

- c. 8.2km north east of the Rye Water Valley/Carlton SAC (001398)

## **6.3. EIA Screening**

6.3.1. See Appendix 1- Forms 1 and 2.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

A third party appeal has been received from Mr Herbert Jordan of Stokestown, Co. Meath. The appellant is the owner and occupier of the house to the immediate south

of the appeal site and shares a boundary with the site. The grounds of the appeal can be summarised as follows-

- The appeal relates to conditions 1 and 3 (a) & (b)
- The Appeal specifically states in section 1.2-

*“Notwithstanding the subject matter of this appeal against conditions of the decision”.....*

the Board may wish to conclude-

*“whether the overall decision of Meath County Council accords with the above overarching NPF policy NPO19 for rural housing in this particular area – a rural area under strong urban influence, specifically that a sufficiently strong demonstrable economic or social need exists for the development as proposed.”*

- The Appellant has made two submissions to the council on this application to highlight concerns regarding undue negative impacts with the proposed siting and imposition the dwelling would have on the long established amenities and enjoyment of his own property. These concerns are not considered adequately addressed.
- The shared boundary between the sites is defined by a low wall within the appellants ownership and a leylandii screen planted hedge. This hedge may be close to its useful life as a screen hedge. If it is removed it will expose the proposed dwelling which is described as an over dominant and overbearing vista of its deep southern gable with large windows and an outdoor patio area less than 9m from an existing bedroom in the appellants home.
- Concerns raised with the council over the proximity of the proposed house 3.14m to the boundary included the proximity of the wastewater percolation area, the excessive floor area of the garage and the proposed driveway width.
- Further concerns were raised over the FI submission included the justification for the garage, the further widening of the of the driveway and impact on separation distance to the boundary and impacts on privacy from the proposed fenestration.



- In section 4.5 the Appellant considers houses in the area are largely 1980s or earlier design. It may be problematic to conclude the house design is an appropriate design and siting arrangement in the context of surrounding houses.
- The Council's decision has radically and materially reduced the separation distance between the proposed dwelling and the appellants rear boundary and would result in an undue invasion on the historic privacy and amenity of the appellant.
- The decision approves a development more representative of a suburban house type.
- Condition 3 (b) in relation to the proposed finished floor level (FFL) is not definitive or watertight and it could actually be raised significantly above 300mm. It is requested the Board revise the condition so as the FFL shall not exceed 300mm.
- Section 5 sets out '*Specific Requirements*' of the appeal to ABP. In section 5.1 the Board is requested to reassess the siting and positioning of the proposed house, garage, driveway and hardstanding to address the non-rural (rather than suburban type) siting arrangements of proposed house and garage layouts approved 'as per conditions number 1 & 3 of the decision of Meath County Council.<sup>2</sup>
- Section 5.2 seeks-
  - relocation of the proposed house at least 6.5m from the shared boundary with consideration of up to 10.5m
  - reduce the garage to 40 sq.m and relocate it in line with the rear elevation of the proposed house with appropriate hardstanding fronting the garage
  - amend condition 3 (b) so FFL shall not exceed a maximum of 300mm above the existing footpath to the front of the site.

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<sup>2</sup> Italic emphasis added to direct quote which included underlining.

- Condition planting of native mixed deciduous hedging along the shared boundary
- Amend fenestration on the single story side annex
- The appeal is accompanied by-
  - a copy of the decision to grant permission which specifically identifies conditions 1 and 3 (a) & (b) and
  - acknowledgment of both submissions to the council.

## **7.2. Applicant Response**

- None received

## **7.3. Planning Authority Response**

- The Planning Officer considered merit of the proposed development with respect to principle, siting, design and location within a rural area along with the applicants local needs. It was considered that the proposal was permissible subject to normal planning considerations as per the policies and objectives of the County Development Plan 2021-27.
- The matters raised in the initial observation was appropriately considered throughout the assessment stage as detailed in both Planning Officer Reports.
- The proposal is wholly in accordance with national, regional and local planning policy with respect to rural development.
- Subject to compliance with conditions the proposal would not seriously injure the visual amenities of the area or the residential amenities of the properties in the vicinity and would not be likely to have significant effects on the road network, the environment or the ecology of the area.
- It would be in accordance with proper planning and sustainable development of the area.

#### 7.4. Observations

- None

### 8.0 Assessment

#### 8.1. Introduction

- 8.1.1. Having considered the content of the third party appeal, I am satisfied the appeal only relates to Conditions No. 1 and 3 (a) &(b) attached to the Planning Authority's decision to grant permission. In this regard, the Board are referred to sections 1.1, section 5 and elsewhere in the appeal, in which it is clearly detailed, it is the siting and positioning of the proposed development as set out in conditions 1 and 3 that are being appealed. Furthermore the Appellant specifically indicates these two conditions on the copy of the Council's grant which they included with the appeal.
- 8.1.2. Section 1.2 of the appeal does discuss the issue of the proposed development in the context of the National Planning Framework (NPF) and NPO19 i.e. the provision of single housing in the countryside based on demonstrable economic or social need to live in the area. However this is specifically referenced as "*notwithstanding the subject matter of this appeal against the conditions....*". It also says "*it may be a matter*" for the Board to conclude on same.
- 8.1.3. I have given this consideration and note that this issue is not raised in either of the Appellants two submissions to the Council nor was it raised in any other third party observation/submission including at Significant FI stage. The appeal also does not highlight any specific issue as to why the applicant does not comply with NPO19 nor does it indicate how he does not have a demonstrable economic or social need to live in this area.
- 8.1.4. It is considered this element of the Appellant's submission does not form a substantive part of the appeal. Nor does it have appropriate substance or foundation. It could be construed as a cynical attempt to delay the development. The Board may wish to consider dismissal of the appeal under section 138 of the Acts.
- 8.1.5. Notwithstanding, this the current Meath CDP was adopted on the 22<sup>nd</sup> of September 2021 and came into effect on the 3<sup>rd</sup> of November 2021. The CDP and its associated

'Rural Development Strategy' (Chapter 9) was clearly prepared with due regard to current national and regional planning policy including NPO19 of the NPF. It was also subject to evaluation by the Office of the Planning Regulator (OPR) for compliance with same national and regional policies.

8.1.6. The applicant has submitted substantial information in support of his application and this is on file. I have reviewed these and see no reason to question the local authority's determination in this regard, nor should it form a determining factor to this appeal in the context of section 139.

8.1.7. Having regard to the nature and scale of the proposed development and the content of conditions 1 and 3, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance is not warranted. Therefore, the Board should determine the substantive matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

## **8.2. Condition 1**

8.2.1. The contents of condition 1 are typical to any grant of planning permission and require the proposal to be constructed in accordance with the plans and particulars lodged with the application and further information. It provides for changes to those plans where required by other conditions of the same permission.

8.2.2. The application drawings clearly propose new hedging along the southern boundary and the appellants concern in this regard is unfounded. I also note condition 5 (b) requires landscaping as per the plans and particulars dated 11/07/23. A 'Landscaping Details and Maintenance' document is submitted with the application and this details recommendations to this boundary.

8.2.3. While I also acknowledge the design and siting concerns of the appellant which will be considered further in section 8.3, I see no reason for the Board to remove or amend condition 1.

### 8.3. Condition 3

8.3.1. Condition 3 sets out three separate paragraphs but it is clear the appeal only refers to paragraphs (a) & (b). No consideration is given herein to paragraph (c).

#### 8.3.2. Paragraph (a)

8.3.3. This generally requires the design of the dwelling and garage building to be as shown on plans submitted on 11/07/2023 and 20/10/2023 with the use of brick or reconstituted stone not permitted.

8.3.4. It is clear the Appellant's concern in this regard generally relates to the design, siting and proximity of the house to the shared boundary in the local rural context. In particular the siting could expose an overly dominant and overbearing vista of the side elevation with large windows of the single storey side annex impacting privacy and residential amenity.

8.3.5. The submitted drawings indicate the single storey side annex of the proposed house will have a standard pitch roof to c. 4m and is to be sited c.3.25m from the southern boundary of the site which adjoins the appellants land. The gable of the single storey side annex is c. 5.25m wide and includes two long narrow windows that extend to the eaves in a diagonal shape. The first floor element of the proposed house will be c 6.77m from the boundary and there are no windows proposed to the gable facing the shared boundary. An area of hardstanding/patio is indicated to the front side and rear of the single storey annex. Understandably this is the southern side of the house seeking to benefit from solar gain. I note the existing boundary includes a low level boundary wall and existing hedging within the Appellants control.

8.3.6. The proposed house is sufficiently set back from the shared boundary. The proposed development and its design will not have a significant or undue adverse visual impact on property to the south or the wider area. The single storey element and its separation distance is adequate to protect against overbearance and overdominance. Windows at ground floor level would not lead to significant or undue overlooking and loss of privacy and would not significantly impact upon existing residential amenity.

8.3.7. To revise the siting, layout or design of the proposed development as suggested by the appellant is considered unwarranted in this context.

**8.3.8. Paragraph (b)**

- 8.3.9. This requires the proposed finished floor level (FFL) of the dwelling and garage to be a minimum of 300mm above the existing footpath level alongside the front of the site.
- 8.3.10. Having inspected the site, I note there is no existing footpath level alongside the front of the site. A narrow footpath does exist to the south of the application side along the western boundary of the Appellant's property but ends as it adjoins the application site.
- 8.3.11. The application drawings submitted at FI stage shows the proposed finished floor levels at 75.3 for the house and 75.1 for the garage. These levels are generally consistent with other spot levels on the site and as shown on the private road.
- 8.3.12. The requirement for a FFL of minimum 300mm above the path appears to come from the Environment Section report dated 24/11/23 which details the development is in flood zone C and there is no objection subject to the FFL to be a minimum 300mm above existing ground level alongside the front of the site.
- 8.3.13. As the site is not located within Flood Zone A or B I am satisfied there is no significant risk of flooding to the proposed development and there is no necessity for condition 3 (b). Equally the concern of the Appellant is the condition is not specific enough and in theory the applicant could build at a higher level increasing the overall height of the house and thus perceived visual impact.
- 8.3.14. The reason given for condition 3 is-

*"In the interests of visual amenity and in order to comply with the Rural Design Guide contained as Appendix 13 in the Meath County Development Plan 2021-2027".*

The minimum requirement for the FFL should not significantly impact the visual amenity reasoning given unless it was built at such a higher level that I do expect would occur. I have reviewed the Rural Design Guide and have not identified any reference to a requirement for a minimum FFL of 300mm. I do note section 7.3 deals with Building Regulations and requirements under Part M- for a level threshold at the main entrance door. Such a requirement as well as other conditions of the planning permission would be sufficient to ensure an abuse of condition 3 (b) would not occur.

8.3.15. However, in the interest of clarity, as the site is not at significant risk of flooding and in the absence of any clear justification otherwise, it is recommended the Board **Omit** condition 3 (b) with the proposed FFL then managed under the provisions of condition 1 and 3 (a).

#### 8.4. **Appropriate Assessment**

8.4.1. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, 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.

### 9.0 **Recommendation**

9.1. Having inspected the site and reviewed the drawings and documents on file, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and based on the reasons and considerations set out below, it would be appropriate to use the provisions of Section 139 of the 2000 Act,—

1. **ATTACH** Condition 1 and the reason therefor
2. **REMOVE** Condition number 3 paragraph (b) only
3. **AMEND** Condition 3 as follows-

Reorder paragraph 3 (c) to paragraph 3 (b) and

4. **RETAIN** the reason for Condition 3.

### 10.0 **Reasons and Considerations**

Having regard to the nature, scale, design and layout of the proposed development, the pattern of development in the area and the provisions of the Meath County Development Plan 2021-2027, it is considered that the proposed development would not seriously injure the residential and visual amenities of the area and would therefore, be in accordance with the proper planning and sustainable development of the area.

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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.

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Adrian Ormsby  
Planning Inspector

02<sup>nd</sup> of March 2024



## 11.0 Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-318788-24		
<b>Proposed Development</b>	One off rural house		
<b>Development Address</b>	Stokestown, Dunboyne, Co. Meath		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
Yes			EIA Mandatory EIAR required
No	x		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
No		N/A	No EIAR or Preliminary Examination required
Yes		Class 10 (b) (i)	One house
<b>4. Has Schedule 7A information been submitted?</b>			
No	x	Preliminary Examination required	
Yes		Screening Determination required	

## Form 2- EIA Preliminary Examination

<b>ABP Case Reference</b>	ABP-318788-24	
<b>Proposed Development</b>	One house rural	
<b>Development Address</b>	Stokestown Dunboyne Co. Meath	
<b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b>  Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	One house in rural area connecting to on-site wastewater treatment and public water supply. SUDs measures to address surface water drainage.	No  No
<b>Size of the Development</b>  Is the size of the proposed development exceptional in the context of the existing environment?  Are there significant cumulative considerations having regard to other existing and/or permitted projects?		No  No
<b>Location of the Development</b>  Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?  Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?		No  No
<b>Conclusion</b>		
<b>There is no real likelihood of significant effects on the environment.</b> EIA not required.	<b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b> N/A.	<b>There is a real likelihood of significant effects on the environment.</b>  N/A

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_