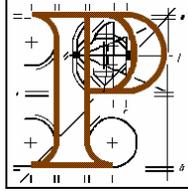


An Bord Pleanála



Inspector's Report

Development: 'Part' two-storey house, drainage treatment unit and percolation area, entrance to adjacent house to be used for access.

Site Address: Ballycorrigan, Boher Road, Ballina, Co. Tipperary.

Planning Application

Planning Authority: North Tipperary County Council.

Planning Authority Reg. Ref.: 12/510300

Applicants: Bernadette McKeogh

Type of Application: Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant: Bernadette McKeogh

Type of Appeal: 1st party –v- refusal

Observers: None

Date of Site Inspection: 24th February 2013

Inspector: G. Ryan

1.0 SITE

- 1.1 The site is located on the outskirts of Ballina, which forms part of a larger urban area of Ballina/Killaloe, which straddles the River Shannon and the Clare/Tipperary border, around 20km northeast of Limerick City Centre. The site is around 500m east of the centre of Ballina, on the L2128 local road, known as the Boher Road. This road runs east from the town into the surrounding hinterland, and runs parallel to, and around 1km north of the R496, the main approach road from the east. The site is within the town's 50km/h speed limit, which begins a short distance to the east.
- 1.2 The majority of suburban Ballina is located to the north of the town in a series of estates largely constructed since 1995. There is one significant development south of the town, 'Ard Coillte', which is located just 200m southwest of the subject site, accessed via the Boher Road, and constructed between since 2000. Otherwise, Boher Road is characterised by rural landuses and varying densities of one-off houses of varying vintages, but with most post-dating 1995.
- 1.3 The subject site itself is located between the sites of two detached houses, with an almost continuous run of detached houses on the opposite side of the road. There is a close link with the site to the immediate east in functional terms and in terms of ownership. The site itself is flanked along its western and northern sides by a small river, which forms the development boundary of the town at this point.
- 1.4 The L-shaped site falls generally from east to west, towards the river, but with some level areas towards its eastern boundaries. The level difference between the upper and lower areas is transitioned by way of a sharper escarpment in places towards the northwest and north of the site. At the time of my site inspection, there were rushes on the lower (western) portion, and some standing water on the upper (eastern) portion.
- 1.5 A letter of consent is included from the landowner, Patrick McKeogh, who is the applicant's son.

2.0 PROPOSAL

The scheme consists of works that can be summarised as follows: -

- 2.1 The construction of a 2-storey house with single-storey element to the west.
- 2.2 The design of the house incorporates two elements, a 2-storey stone-finished north-south element of traditional proportions and a single storey east-west element with more modern features and detailing.
- 2.3 The proposed house includes a sitting/dining/kitchen room and a living room in the western 'wing', and also a separate kitchen/dining/living room in the southern 'wing'. Otherwise, the ground floor of the house

consists of 2 bedrooms - 1 ensuite, one with a connection to the 2nd bathroom - and a utility room. At first floor level in the north-south part of the building are 3 further bedrooms and 3 bathrooms (2 of which are ensuite). There are 2 front doors, such that the overall building can operate as a stand-alone 4-bedroom house and a 1-bedroom 'Granny Flat'.

- 2.4 The house has a stated floor area of 300m² on a site of 7,000m² (0.7ha). The proposed house is shown sharing the vehicular access of the existing house.
- 2.5 The cover letter from the applicant's agent, Ryan Teese Architects, states that the dwelling house is for Bernadette McKeogh, and that it would also accommodate her family (Martina McKeogh), who are now her full-time carers. The letter states that the planning authority's preferred site, on land further up the Boher Road is not suitable for the applicant's requirements. Martina McKeogh has had 3 planning applications turned down on 'local need' grounds, as she was not born locally. The design of the proposed development has been substantially revised from earlier applications. It is now considerably smaller, with two distinct blocks, with defined areas for the applicant and her nieces' family. The letter also covers matters raised in the appeal, summarised in section 7.0 below.
- 2.6 The planning application form states that the applicant has lived at Inchamore since 1960, and that she needs to move out of her current isolated location to be close to family carers due to her disability and advancing years. She is a retired farm owner. The landholding is 32ha. The applicant's relationship to the landowner (Patrick McKeogh) is given as mother.
- 2.7 The site suitability assessment submitted with the application notes rushes down gradient, the stream adjacent to the site, and the septic tank on the adjoining site. It recommends that wastewater flow by gravity to the treatment unit, and then pumped to the polishing filter, with an interceptor drain upstream of the percolation area. The attached drawing shows the proposed percolation area to the immediate north of the existing house to the east, the percolation area for which is shown to the southwest of the house. Mapping from the GSI is included.
- 2.8 Water supply is to be via the public mains.

3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY

3.1 Planning Officers report

The issues raised in the planning officer's report can be summarised as follows: -

- 3.1.1 The applicant has demonstrated that she has lived for many years some 1.5km to the east, and it is clear that she is local to the area.
- 3.1.2 Notes that the applicant was refused permission under PA Ref 11/51/0091 due to (inter alia) non-compliance with Policy HSG12, as it had not been demonstrated to the satisfaction of the planning authority that the applicant qualified for a dwelling, as she already owns a dwelling at Inchamore.
- 3.1.3 It is considered that while the applicant may have requirements to be looked after, the applicant has not demonstrated that a new dwelling is required for this purpose.
- 3.1.4 The site is located just outside the defined settlement of Ballina. The divide between the settlement of Ballina and the adjoining rural area would be blurred to the detriment of visual amenity.
- 3.1.5 Taking into account the dwellings inside and outside the development boundary of the town, ribbon development would occur, contrary to development plan policy.
- 3.1.6 The existing site to the east would be left on a site that would be substandard with respect to effluent treatment. The plan submitted with the site suitability assessment appears to show the percolation area serving the existing dwelling being less than 10m away.
- 3.1.7 A separate Habitats Directive Assessment Screening Report, signed by the planning officer, notes (inter alia) that the site is within 500m of the Lower River Shannon pSAC, that possible impacts relate to the construction phase and the disposal of foul effluent, and concludes that there is no potential for significant effects, and that therefore Appropriate Assessment is not required.

3.2 Departmental Reports

3.2.1 *Area Engineer:*
No objections.

3.2.2 *Environment Section:*
The executive engineer states that he is satisfied that the chosen location of the percolation area is suitable for the proposed wastewater treatment system, but is concerned that the 'red line' does not extend to the adjacent dwelling site. The percolation area for the existing site is intersected by the existing site access road, indicating that it requires relocating. Also, sight lines in the westerly direction are inadequate. Recommends further information on this issue, on the loading of the WWTS, and on the relocation of overhead electricity lines.

3.3 Representations

None on file.

4.0 PLANNING AUTHORITY DECISION

The planning authority decided to refuse permission for 4 reasons, which can be summarised as follows:

1. It is the policy of the Council to resist houses in the High Amenity Area as set out in Policy HSG 13 of the County Development Plan 2010 except for the following: [cites items (i) to (vi)]. The Planning Authority considers that the applicant has failed to demonstrate a housing need and therefore does not comply with the policy requirements as set out in Policy HSG13 of the County Development Plan 2010.
2. [cites Policy HERT1]. The proposed development would result in a house on land that is not zoned for development outside the settlement boundary of Ballina as defined in the Ballina Settlement Plan (a part of the County Development Plan 2010) which would undermine the clear distinction between the town and surrounding countryside to the detriment of the character and visual amenities of the rural area.
3. [cites Section 5.2.3(ii) in relation to ribbon development]. The proposed development would result in the extension of the existing pattern of ribbon development. Taking cognisance of this pattern of development, it is considered that the proposed development would result in an over concentration of dwellings, which would lead to the extension of ribbon development to the detriment of the character of the rural area as well as resulting in an over concentration of septic tanks to the detriment of public health.
4. The Planning Authority considers that the applicant has failed to demonstrate that the proposed dwelling at the application site would not result in the dwelling at the adjoining site being left on a site of insufficient area with respect to the on-site treatment of foul effluent so as to comply with the requirements of the relevant standards set out in the accordance with the requirements of the Code of Practice- Wastewater Treatment and Disposal Systems Serving Single Houses published the Environment Protection Agency 2009. In the absence of such information the Planning Authority is not satisfied that the proposal would not result in the creation of a public health hazard

I note correspondence on file from the Director of Services to all councillors of the Newport electoral area stating that it is proposed to hold a 'refusal meeting' for the purposes of considering the proposed refusal of the subject proposal. It is perhaps notable that this process has no basis in current planning legislation.

5.0 HISTORY

There is a long and complex planning history relating to sites within the family landholding. The most relevant of these are summarised in Table 1 in section 9.1 below.

PPC 4538 – relates to a pre-application consultation from May 2012 (on file). While the minute of this meeting is on file, there is no record of the issues discussed or the advice given.

6.0 POLICY

6.1 Sustainable Rural Housing - Guidelines for Planning Authorities DoEHLG 2005

The guidelines identify a number of indicative nationwide classifications depending on the character of the area, namely –

- (1) Rural areas under strong urban influence
- (2) Stronger rural areas
- (3) Structurally weaker rural areas
- (4) Areas with clustered settlement patterns

The site of the proposed development is shown on Map 1 as being located within a Rural Area under Strong Urban Influence. In relation to such areas, Appendix 3 recommends (inter alia) that key development plan objectives in these areas should be to on the one hand to facilitate the 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 cities, towns and villages in the area of the development plan.

6.2 North Tipperary County Council Development Plan 2010-2016

The site is located immediately adjacent to, but outside of, the development boundary for Ballina, which at this point aligns with the river that flows along the site's northern and western boundary.

The site is located in the 'High Amenity' area, which covers the shores of Lough Derg and the banks of the Shannon. The area south of the Boher Road lies within a 'Pressure Area', which extends along the M7 corridor from Limerick to Nenagh, and also surrounds the towns of Nenagh, Roscrea, and Thurles.

The following policies are cited by the planning officer and the appellant. See Section 12.0 (Appendix 1) below for full text.

HSG13 – Housing in High Amenity Areas

HERT 1 – Settlement Fringe

ENV8a - Wastewater Treatment Systems on Un-Sewered Properties

SERV 5 - Water Supply

5.2.3(ii) - Ribbon Development

7.0 GROUNDS OF APPEAL

The 3rd party appeal was submitted by Bernadette McKeogh. The main grounds of this appeal can be summarised as follows:

- 7.1 It is Bernadette's wish to be able to live beside both her son Patrick and her niece Martina, so that her care could be shared by both.
- 7.2 A map of the area showing sites and their planning histories is included on Page 5. The main points of this map are summarised in Table 1 below (Section 9.1 below)
- 7.3 Over an 8 year period, both Bernadette and Martina have had 5 applications refused. All have had a granny flat incorporated.
- 7.4 For the past 6 years, Patrick (Bernadette's son) has been living with her at the farmhouse on the upper landholding (shown on attached maps), while Martina has been renting the house to the immediate east of the subject site (Permission granted to Patrick – Constructed in 2006)
- 7.5 If the proposed development is granted, it will be shared between the applicant (Bernadette) and Martina and her family. Patrick would move back to the house to the immediate east.
- 7.6 Refers to issues that have arisen between the applicants and the planning authority over the years, to the circumstances of a previous refusal to the current applicant under 11/51/2008, and to the differing development plan policies that apply to the north and south side of the Boher Road (lower and upper landholdings respectively).
- 7.7 In reference to policy HSG13, the appellant states that it is the planning authority's position that the 'exceptional health circumstances' referred to in 'Note 7' of the policy do not apply to 'old age' and therefore do not apply to the applicant. The appellant asserts that this is an incorrect interpretation, and that the applicant's health circumstances qualify her under this policy.
- 7.8 A letter from the appellant's GP states that she is 78 years old and has ongoing health issues, including deafness, and that her niece Martin[a] visits her daily, and are her closest relatives. Her current house is isolated.

- 7.9 Martina and her family cannot move into the 200+ year old farmhouse as it only has 2 bedrooms. Bernadette cannot move into the house [Patrick's] rented by Martina, as there are just 4 bedrooms. Also, Patrick would be excluded from Bernadette's care.
- 7.10 Note 8 of HSG13 has been used to allow applicants to 'upsize' even if they own a house in the area (gives example of 09/51/0037).
- 7.11 In relation to the planning authority's suggestion of an alternative site, the appellant contends that the issue of housing need should be assessed independent of the site selected.
- 7.12 In relation to policy HERT1 (Settlement Fringe), which requires the maintenance of a clear distinction between urban areas and the countryside, nowhere in Ballina is there such a distinction, due to houses outside and proximate to the boundary on all approach roads. The proposed 40m gap and line of trees along the river will, in the case of the subject proposal, maintain the required distinction.
- 7.13 On the issue of over concentration of septic tanks, cited in the planning authority's refusal reason, the appeal states that this is a subjective position. There are more dense concentrations of unsewered houses in the vicinity. Furthermore, what is proposed is a full treatment system, not a septic tank. It is proposed to pump the effluent from the existing house to a new percolation area, and further away from the river than its current position, which is in a poorly drained area, with ample growth of rush.
- 7.14 The proposed development passed all tests in relating to wastewater treatment. The two houses would be served by one treatment system. Consent from the adjoining owner, Patrick McKeogh, is included in a letter.
- 7.15 The proposed development will not extend ribbon development. It is an infill site. If there is ribbon development anywhere in the area, it is further east along Boher Road. The proposed development would represent the 6th house within 250m, measuring out from the town boundary. HSG 13 allows for 5 houses within 250m, but 5.2.3(ii) allows for a 6th where the landowner has never sold a site previously.
- 7.16 Page 18 of the appeal includes a photomontage showing the proposed house.
- 7.17 The appeal is accompanied by a paper titled "The Quality of life of older people living with a disability in Ireland" and letters of support from two councillors. Also included is a copy of the applicant's deposit book from the 1960s/1970s from Killaloe bank.
- 7.18 A report from Molloy Precast Products Ltd, dated 2 days before the submission on the appeal, contains calculations for the proposed

wastewater treatment system to increase the loading from 9PE to 10PE.

8.0 SUMMARY OF RESPONSES

8.1 Planning Authority

The planning authority made a submission to the board stating that they have no further observations.

9.0 ASSESSMENT

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Planning history of site, applicant, surrounding sites, and applicant's relations
- Compliance with rural housing policies
- Ribbon development and urban edge
- Drainage and effluent disposal

9.1 Planning history of site, applicant, surrounding sites, and applicant's relations

9.1.1 While it is a requirement that the proposed development be assessed on its merits, I note that both the applicant and the planning authority draw on the long and complex planning histories pertaining to the applicant, the applicant's relations, and the overall landholding. This history is relevant insofar as it provides a context for some of the issues raised in the subject appeal. On the basis of the information provided, past planning reports, and the planning authority's online GIS system, I have pulled together the table below, which highlights some of the more important applications and appeals in the vicinity in terms of applicant (column) and site (rows).

9.1.2 The main protagonists in the current appeal are as follows:

- Bernadette McKeogh, the applicant, 79 years old, and living in a farmhouse around 1.5km east of the application site.
- Patrick McKeogh, the landowner. He is the applicant's son and is stated at a number of junctures as being a part time farmer. Some accounts place him as living with Bernadette McKeogh, his mother, in the farmhouse. Patrick was granted permission for the house immediately to the east of the subject site, and owns this house.
- Martina McKeogh. Niece of Bernadette and Cousin of Patrick. The material submitted states that Martina, her husband, and their 4 children currently rent and live in Patrick's house to the immediate east

of the subject site. She provides care for Bernadette. If permission is granted for the subject proposal, it is stated that she would move into the new house, with Bernadette moving from the farmhouse into the granny flat. Patrick would move into his own house, currently occupied by Martina. The inspector's report under PL22.238488 states that Martina works in Limerick City, 20km to the southwest, and that she does not meet the 'local need' criteria of the Development Plan.

- (Seamus and Declan McKeogh are not referred to in the material on file, but may possibly be related)

	Bernadette McKeogh	Patrick McKeogh	Martina McKeogh	Seamus McKeogh	Declan McKeogh
A - Subject site	Subject appeal.		Would live here with the applicant		
B - Site to immediate East**		Permission granted under 03/51/1392* Built 2004 or 2006	Currently lives here. Rented by Martina + husband + 4 children for past 6 years		
C - Site 200m east			Permission refused under 06/51/0710		
D - Site 400m east					Outline Planning Permission refused under PL08/51/0991
E - Site 550m east				Permission granted under 02/51/0799. Since constructed.	
F – Site 600m east			Permission Refused under PL22.236488/10510004		
G - Old house at Inchamore	Currently lives here	Currently lives here (?)			
H – site east of G	Refused permission under 11/51/0091				

Table 1.

9.1.3 The family landholding, owned by Patrick and shown on drawings accompanying this and other previous applications, covers two contiguous parcels of land. The first runs east from (and includes) the subject site, and is referred to as the 'lower' landholding. The second is clustered around the old farmhouse 1.5km to the southeast, and is referred to as the 'upper' landholding. Sites A, B, and C are part of the lower landholding, while sites G and H are part of the upper landholding. Sites D, E, and F are currently shown outside the applicant's ownership, but may have once been part of the overall family landholding. There is no information to this effect.

9.2 Compliance with rural housing policies

9.2.1 I note that the current applicant (Bernadette) was deemed not to comply with the council's rural housing policy under 11/51/0091 (Refusal Reason 2) due to lack of housing need, as well as under the planning authority's decision under the subject proposal. The appeal asserts that due to exceptional health circumstances, that the applicant complies with the relevant policy.

9.2.2 The relevant policy in this instance is HSG 13 of the county development plan, which is replicated in full in Appendix 1. It makes 6 initial points and states effectively that in areas such as the subject site (High Amenity Area), houses will be resisted except for two circumstances.

- (i) Persons who were born in the rural High Amenity Area and within 5km of the proposed location or lived in the rural High Amenity Area within 5km of the proposed location for any 10 year period of that person's life or;
- (ii) Direct family members seeking to live on the family farm where the primary residence is part of the farm holding;

The remaining 4 points of the policy refer to views, siting etc., and that the house be for the persons own use.

9.2.3 In relation to point (i), there is material on file to suggest that the applicant has lived at the farmhouse for some time, but no evidence to that effect other than bank statements straddling the late 50s/early 60s. While I would be surprised if there was no continuous 10 year period in residence at the farmhouse at Inchamore, there is no evidence that this is the case. In any event, Policy HSG 13 is accompanied by 8 'notes' that must be read in conjunction with the policy, several of which are relevant to the subject appeal.

9.2.4 Note 1 states that the Council will discourage the development of second homes, or the development of new dwellings following the sale of a primary residence. I note that between the 3 main protagonists (Bernadette, Martina, and Patrick), they have 2 houses between them (the Farmhouse and Patrick's House). Under their proposal, the 3 family units would still live in 2 houses (Patrick's House and the

proposed house), with the fate of the farmhouse unstated. The applicant would essentially be moving from the farmhouse to the granny flat of the proposed development, which could reasonably be considered contrary to Note 1.

9.2.5 Note 7 states the following: *“The Council will only consider exceptional health circumstances where applications are supported by relevant documentation from both an appropriate Disability Organisation and a registered medical practitioner, subject to relevant planning policies. Where a Disability Organisation does not exist to support the particular health circumstances of the applicant the Planning Authority will consider the application having regard to the proper planning and sustainable development of the area.”*

9.2.6 With due respect to the applicant’s health issues, including hearing impairment and mobility difficulties, I do not consider that these conditions, which commonly accompany advancing years, could be considered as ‘exceptional health circumstances’. Even applying a stark mathematical interpretation, age-related conditions that affect a significant proportion of the population cannot reasonably be construed as ‘exceptional’. In my experience, such cases are usually advanced by applicants for new one-off rural houses who live in a town or city, where a move to the countryside would benefit them or their family in health terms to specific ‘exceptional health circumstances’. It is my understanding that the policy in question seeks to advance something of a dispensation in these circumstances, as do the County Development Plans of a number of local authorities. In the case of the subject appeal, the applicant wishes to move from a low-density rural area to a nearby better-located higher-density rural area that would better facilitate her circumstances. While the difficulties associated with age-related health conditions must be appreciated, these circumstances are not provided for in policy at a local, regional, or national level.

9.2.7 Note 8 makes provision for allowing new-build houses when upsizing by a minimum of 100m², or downsizing by elderly people. There is no information regarding the relative sizes of the existing farmhouse and the granny flat, but in any event, I would question whether this principle could be extended to a situation whereby the new unit (granny flat) was accompanied by an adjoining 4-bedroom house.

9.2.8 In my opinion, the applicant’s circumstances are not such that would result in a favourable consideration under the current applicable policies of the County Development Plan on this issue or rural housing.

9.3 Ribbon development and urban edge

9.3.1 The County Development Plan policy on Ribbon Development is contained in Section 5.2.3(ii), which is replicated in full in Appendix 1 below. The crux of the policy is that *“The Council will resist further development where there exist/permitted 5 houses, in total, along any continuous 250 metres of roadway which covers the proposed site”*. In

the subject case, there are 11 houses along this 250m stretch of roadway, and the subject proposal would be the 12th, with 5 outside the town boundary and 7 inside the town boundary. As such, the proposed development would fall foul of this policy.

9.3.2 Urban Edge/Settlement Fringe is dealt with in Policy HERT 1, which is replicated in full in Appendix 1 below. It seeks to maintain definable development boundaries for towns and villages. The appeal presents a number of arguments in this regard, namely that none of the approach roads maintain a clear edge at the development boundary, that the proposed 40m gap to the west of the house would maintain the required distinction, as would the line of trees. In my opinion, these arguments, deliberately or otherwise, do not reflect the intention of Policy HERT 1, which is not to maintain some form of physical delineation of the town boundary, nor to maintain a gap of a matter of tens of metres between low density urban development inside the development boundary and high density rural development outside the boundary. Rather, the intention of this policy is that on a macro level, and in the interests of sustainability, that there would be a distinct shift in character, urban form, and density when the areas inside and outside the town's development boundaries are compared.

9.3.3 In order to implement such a policy, it will be necessary to resist development in the areas outside of, but proximate to the town development boundary. As such, the continued densification of residential development along the Boher Road that this proposal would further, can only be considered at odds with this policy.

9.4 Drainage and effluent disposal

9.4.1 There is a distinct lack of clarity on the issue of effluent disposal. The permitted drawings for the house to the east (on file - 03/51/1392) appear to indicate that the effluent treatment system would be located to the northwest of the house (within the current subject site). The drawings accompanying the site suitability assessment for the subject proposal indicate that the adjoining house's percolation area is located to the southwest of the existing house, in an area which is currently under a tarmac driveway. The site characterisation assessment is based on 4 double bedrooms and one single bedroom (9 PE), yet the accompanying submissions state that the WWTS would treat waste from both the existing house and the proposed house.

9.4.2 The appeal includes revised specifications for a system to treat 10 PE (revised up by one person), and a revised site characterisation form based on 7 PE (revised down by 2 persons), with the accompanying drawings indicating a proposed system for the existing house at the location where the system for the proposed house was shown (i.e. within the subject site), and indicating a location for a system to serve the proposed house at a location further east again, beyond the 'red line's subject site.

- 9.4.3 Furthermore, the topographical information presented in all instances is wholly inaccurate, and appears to have no basis in any survey. The level areas and breaks in slope are not shown, and instead a gentle slope is interpolated across the site. By way of example, the drawings show the adjoining river flowing uphill for around 60m, and gaining a metre of altitude in the process.
- 9.4.4 This amalgam of inconsistent and inaccurate information is effectively impossible to assess, let alone enforce if permission were to be granted. I note that the report of the planning authority's Environment Section raised concerns in this regard. Furthermore, the issue of encroachment into the river's floodplain, while not raised by any of the parties to the appeal, may be worth considering. I note that preliminary flood mapping for the area provided by the OPW indicates potential risk of fluvial flooding along this watercourse, and the vegetation and topography would appear to corroborate this information. An accurate topographical survey and possibly a flood risk analysis may serve to provide more information in this regard.
- 9.4.5 Furthermore, If two houses are to be served off a single system, it is not appropriate, in my opinion, to apply the EPA's 'Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses' which is designed for a PE of less than or equal to 10. In this instance the 'Wastewater Treatment Manual - Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' would be applicable.

10.0 CONCLUSION AND RECOMMENDATION

Based on the above, I recommend that permission be refused for reasons approximating the planning authority's decision, which are largely reasonable, in my opinion. While not raised in the appeal, it is my opinion that the proposed development performs well on the issues of building design and residential standards.

10.1 Screening for Appropriate Assessment

- 10.1.1 I note that the planning authority undertook a Habitats Directive Assessment Screening Report, as summarised in section 3.1.7 above. I concur with this assessment and have nothing further to add on the matter.

11.0 REASONS AND CONSIDERATIONS

1. It is the policy of the Council to resist houses in the High Amenity Area as set out in Policy HSG 13 of the County Development Plan 2010 except for a number of defined circumstances. The applicant has not demonstrated any of these circumstances, and as such does not comply with the policy requirements as set out in Policy HSG13 of the County Development Plan 2010. As such, the proposed development would be contrary to the settlement strategy of the County, and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in a house on land that is not zoned for development, outside the settlement boundary of Ballina as defined in the Ballina Settlement Plan (a part of the County Development Plan 2010) which would undermine the clear distinction between the town and surrounding countryside to the detriment of the character and visual amenities of the rural area, and would be inconstant with policy HERT 1 of the County Development Plan 2010, which seeks to maintain a defined Settlement Fringe. As such, the proposed development would be contrary to the settlement strategy of the County, and would be contrary to the proper planning and sustainable development of the area.
3. The proposed development would result in the extension of the existing pattern of ribbon development at a density beyond that permitted by the County Development Plan. Taking cognisance of this pattern of development, it is considered that the proposed development would result in an over concentration of dwellings, which would lead to the extension of ribbon development to the detriment of the character of the rural area as well as resulting in an over concentration of septic tanks to the detriment of public health.
4. The applicant has failed to demonstrate that the proposed dwelling at the application site would not result in the dwelling at the adjoining site being left on a site of insufficient area with respect to the on-site treatment of foul effluent so as to comply with the requirements of the relevant standards set out in the accordance with the requirements of the EPA's Codes of Practice. Furthermore, there is a range of inconsistencies on the issue of wastewater treatment in the information submitted. In the absence of coherent and constant information addressing this issue, the board is not satisfied that the proposal would not result in the creation of a public health hazard. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.

G. Ryan
Planning Inspector
5th April 2013

12.0 Appendix 1 – Relevant Development Plan Extracts

Policy HSG 13: Housing in the High Amenity Area

It is the policy of the Council to resist houses in the High Amenity Area except for the following:

- (i) Persons who were born in the rural High Amenity Area and within 5km of the proposed location or lived in the rural High Amenity Area within 5km of the proposed location for any 10 year period of that person's life or;
- (ii) Direct family members seeking to live on the family farm where the primary residence is part of the farm holding;
- (iii) The proposed development does not interfere with views to or from the lake; and
- (iv) The siting, design and layout will not detract from the character or uniformity of the landscape;
- (v) The house is for that person's own use; and
- (vi) The applicant can demonstrate that he/she is eligible under the above criteria.

Note 1: The Council will discourage the development of second homes, or the development of new dwellings following the sale of a primary residence. Policy HSG 13 is designed to meet those who genuinely need to live permanently in the High Amenity Area and persons who are an intrinsic part of the rural community, living permanently in the rural area but whose work requires them to be away from the family home for a number of days each week.

Note 2: Applicants inheriting land that require a dwelling, and conform to local need as defined in Policy HSG 13, will be confined to a single dwelling only through legal agreement set out in Note 4.

Note 3: The definition of 'Rural' under Policy HSG 13 shall include small villages and the open countryside, but will exclude the following urban settlements - Nenagh, Thurles, Roscrea, Templemore, and the smaller settlements of Ballina, Newport, Borrisokane, Borrisoleigh, Littleton and CloghJordan. (However, those living within these smaller settlements prior to 1990 will benefit from rural location under Policy HSG 13).

Note 4: The Council may require a legal agreement in exceptional circumstances with a landowner to restrict or regulate the further development of land by sterilisation in accordance with the provisions of Section 47 of the Planning and Development Act, 2000. The Council in requiring such an agreement may confine the sterilisation to the selling of sites and exclude direct family members from the sterilisation. This will, however, depend on the extent of development in the area and the planning history of the landholding;

Note 5: The Council will attach a condition to a grant of permission for a house in the countryside that stipulates that the house should be occupied as a place of permanent residence by the applicant for a minimum of seven years.

Note 6: Houses in the High Amenity Area will be single storey and twostorey or dormer style buildings will only be considered where there is established screening and the natural topography lends itself towards the integration of such buildings. Applicants preparing housing designs under Policy HSG 13 shall have regard to the Rural Housing Design Guidelines prepared by the Council in 2009.

Note 7: The Council will only consider exceptional health circumstances where applications are supported by relevant documentation from both an appropriate Disability Organisation and a registered medical practitioner, subject to relevant planning policies. Where a Disability Organisation does not exist to support the particular health circumstances of the applicant the Planning Authority will consider the application having regard to the proper planning and sustainable development of the area.

Note 8: The Council discourage the development of second homes or the development of new dwellings following the sale of a primary residence. Policy HSG 13 is designed to meet those with genuine housing need. Where the existing home is owned for a period of 5 years and the applicant can demonstrate a genuine need and is upsizing by a minimum of 100 sq.m over the size of their existing home, or where an elderly person may wish to downsize by virtue of the existing dwelling being too large, or in exceptional circumstances, the Council will consider facilitating either up sizing or down-sizing once.

Policy HERT 1: Settlement Fringe

It is the policy of the Council to maintain definable development boundaries for towns and villages, to prohibit ribbon development and other urban related development, and to maintain a clear distinction between urban areas and the countryside.

Policy ENV8a: Wastewater Treatment Systems on Un-Sewered Properties.

All site assessments for all on-site treatment systems or septic tanks shall be carried out in accordance with relevant Environmental Protection Agency guidance (EPA), and any subsequent Codes of Practice super-ceding or updating these, and endorsed by the Department of Environment for this purpose.

Policy SERV 5: Water Supply

It is the policy of the Council that in granting permission for new development the development shall be connected to the Council water supply, and only in exceptional circumstances will the Council consider group water or single borehole wells.

5.2.3(ii) Ribbon Development

In assessing applications under policies HSG8 - 13 the Council will take account of the planning history of the landholding and the future family needs of the landowner and will resist ribbon development on rural roads and, therefore, will take account of the existing pattern of development in the area.

The Council will resist further development where there exist/permitted 5 houses, in total, along any continuous 250 metres of roadway which covers the proposed site. The 250m will be measured from the point to point of development within the 250m, i.e from site boundary to site boundary. At the earliest possible stage in the planning application process landowners should clearly outline what provision they wish to make for family members on their landholding. This provision will form part of the assessment of current / future applications by the Planning Authority. Exceptions will be made to the above to allow a sixth dwelling provided the application conforms to the other policies in the Plan, in the following circumstances:

- A. To allow the subdivision of a cottage plot or equivalent (minimum size of 1 acre and owned prior to 2004) for a direct family member of the owner and which can be sited without detracting from the rural character and appearance of the area or causing a reduction in amenity due to backland development or;
- B. To facilitate a landowner (who derives some income from farming and owns the land prior to 2004) selling a sitewhere a site was not disposed of from the landholding previously or;
- C. To facilitate a direct family member of a family who purchased a site prior to 2004; or
- D. To facilitate a direct family member of a residential landholding where a site was not sold from the landholding where no opportunities exist on the landholding to set back the site from the road,

And

Exceptions will be made to allow an entrance (where five dwellings exist/permitted) provided the application conforms to the other policies in the Plan in the following circumstances:

- E. To facilitate direct family member of a farming landholding where the site can be set back sufficient distance to be screened from the road (minimum 50m, except in exceptional circumstances), sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development, and where there is no other options on the family landholding or;
- F. To facilitate a landowner (who derives some income from farming and owns the land prior to 2004) selling a site where a site was not sold from the landholding where the site can be set back sufficient distance to be screened from the road (minimum 50m, except in exceptional circumstances), sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development, and where there is no other options on the family land holding.

And

Exceptions will be made to allow an entrance/dwelling (where six dwellings exist/permitted) provided the application conforms to the other policies in the Plan in the following circumstances:

- G. To facilitate a landowner (who derives some income from farming and owns the land prior to 2004) selling a site where a site was not sold from the landholding where the site can be set back sufficient distance

- to be screened from the road (minimum 50m, except in exceptional circumstances), sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development, and where there is no other options on the family land holding or;
- H. To facilitate a direct family member of a farming landholding where the site can be set back sufficient distance to be screened from the road (minimum 50m, except in exceptional circumstances), sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development, and where there is no other options on the family landholding or;
 - I. To facilitate direct family member of a residential landholding where a site was not sold from the landholding where no opportunities exist on the landholding to set back the site from the road or,
 - J. To allow the subdivision of a cottage plot or equivalent (minimum size of 1 acre and owned prior to 2004) for a direct family member of the owner, and which can be sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development or;
 - K. To facilitate a direct family member of a family who purchased a site prior to 2004.

And

Exceptions will be made to allow an entrance/dwelling (where seven dwellings exist/permitted) provided the application conforms to the other policies in the Plan in the following circumstances:

- L. To facilitate a direct family member of a farming landholding where the site can be set back sufficient distance to be screened from the road (minimum 50m, except in exceptional circumstances), sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development, and where there is no other options on the family landholding or;
- M. To facilitate a direct family member of a farming landholding where a site was not sold from the landholding where no opportunities exist on the landholding to set back the site from the road or;
- N. To allow the subdivision of a cottage plot or equivalent (minimum size of 1 acre and owned prior to 2004) for a direct family member of the owner and which can be sited without causing a negative impact on the landscape or causing a reduction in amenity due to backland development;
- O. To facilitate a direct family member of a family who purchased a site prior to 2004.

Note 1: Where an existing ribbon development exists and where exemptions A to O above do not apply, the Planning Authority will consider allowing, in exceptional circumstances and where no other opportunity exists on the landholding and subject to Note 2 below, a single additional roadside site for a direct family member of a farming landholding. This will be subject to the remainder of the land within the landholding, with road frontage, being included as part of a Section 47 Agreement.

Note 2: Subject to Exemptions A to O above, the Planning Authority will not accept more than five dwellings along any one side of the road along any continuous 250 metres of roadway which covers the proposed site.

Note 3: This definition is in compliance with the Sustainable Rural Housing – Guidelines for Planning Authorities (April 2005). The Council will monitor changes to this definition either at a National or Regional level.