



An
Bord
Pleanála

Inspector's Report PL20.247543

Development	Construction of a house, garage, gated entrance and all associated works.
Location	Lodgetown, Termonbarry, Co. Roscommon
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	16/338
Applicant(s)	Maura & Aidan Dolan
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Eoin & Grainne O'Boyle
Observer(s)	None
Date of Site Inspection	25 th January 2017
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ballytoohey approximately 0.75km south-west of the village of Termonbarry, Co. Roscommon. Termonbarry is situated where the N5 crosses the River Shannon at the Longform/ Roscommon border. The majority of the village is on the Roscommon side of the river to the west. The village of Cloonlara is approximately 1.3km south-east of Termonbarry in Co. Longford and Longford town is approximately 9km to the east.
- 1.2. Access to the appeal site is via a “T” junction located on the southern side of the N5 at a point where a 100 kph speed limit applies. An 80 kph speed limit is indicated at the commencement of the local road providing access to the site. This road becomes narrower and deteriorates in condition as it progresses south before terminating at a cul de sac. The local road serves surrounding agricultural lands and approximately 11 no. dwellings, and the appeal site is between the two southernmost dwellings on this road.
- 1.3. The site has a frontage of 39m and stated area of 0.297m. The River Shannon is as close as 380m to the south of the site. The landholding extends south-east to the river’s edge and includes a dwelling to the north of the neighbouring dwelling.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a part single part 2-storey detached dwelling house, gated entrance, garage, packaged wastewater treatment system and soil polishing filter and all ancillary site works. Water supply will be from a private well.
- 2.2. The proposed dwelling will have a floor area of 273.5 sq.m. and the garage will be 49.1 sq.m. The dwelling will have a “L” shaped layout with cross gable roof arrangement. The ridge height will be 7.68m and the set back from the road edge will be between 21m and 34m. The garage will be located to the front of the site approximately 12m back from the road edge.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Roscommon County Council issued notification of decision to grant permission for the proposed development subject to 12 conditions of a general nature including those relating to sightlines and wastewater treatment and disposal.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to grant permission as outlined in the Planner's Report, reflects the decision of the Planning Authority.
- 3.2.2. Under the assessment of the application, it is noted that the site is located in a Structurally Weak Rural Area (sic) and within Rural Housing Policy Category C – Areas in Need of Regeneration. It is the policy of the Council to accommodate substantiated rural-generated housing need subject to good practice, as well as urban-generated housing need on a site-specific basis. It is considered that the applicant has satisfied this requirement and therefore the proposed development is acceptable in principle.
- 3.2.3. The Roads Section has no objection to the proposal subject to conditions relating to sightlines and roadside drainage.
- 3.2.4. The Environmental Section is satisfied that there is an unsaturated layer of topsoil suitable for percolation and that the site has the ability to deal with waste effluent. The Case Planner noted that two trial holes were opened and found to be satisfactory, and that test holes were dry. It is considered that the concerns raised in relation to wastewater treatment and disposal under Reg. Ref: 14/370 have now been adequately addressed.
- 3.3. In terms of design and visual amenity, it is stated that the proposed dwelling is appropriately sited and the floor area is not excessive. The proposed design solution is considered to be appropriate given the topography and existing vegetation, and it is noted that the semi-traditional frontage and front projections break up the massing of the dwelling. The location of the proposed garage to the front of the site is also considered acceptable.

- 3.4. It is considered that the proposed development, within the context of existing development in the area, will not result in a significant negative visual impact from the River Shannon having regard to the separation distance.
- 3.5. Finally, the revised design is considered to address the previous reason for refusal relating to visual obtrusiveness and there are no issues with respect to overlooking and impact on residential amenity subject to implementation of the submitted landscaping plan.

4.0 Planning History

Appeal site

- 4.1. Permission was refused in May 2015 for the construction of a two storey dwelling, domestic garage, proprietary effluent treatment system and percolation area, associated services and site development works (Reg. Ref: 14/370).
- 4.2. It was stated under the first reason for refusal that it has not been demonstrated to the Planning Authority that the site is suitable for the disposal of foul effluent by means of the proposed individual treatment system.
- 4.3. The second reason states that the proposed dwelling would be visually obtrusive having regard to its scale, size and bulk. The floor area of the dwelling was 324 sq.m.

Site to south

- 4.4. Outline permission was granted to Eoin and Grainne O'Boyle for a dwelling with sewerage treatment system and percolation area in March 2003 (Reg. Ref: 04/108). There was a condition attached to this permission requiring the applicant to enter into a Section 47 Agreement to restrict/ regulate the development or use of land.
- 4.5. Permission consequent to the outline permission was granted for a dormer dwelling in January 2006 (Reg. Ref: 04/2127). A condition attached to this permission required the omission of 1st floor windows on gables and a reduction of roof pitch to 35 degrees.
- 4.6. Permission was then refused in November 2010 for a change in house design for reasons relating to visual amenity, housing need and proximity to a developed centre with adequate housing supply (Reg. Ref: 10/448). It appears that this application

was assessed as a new application. Permission was then subsequently granted in February 2011 (Reg. Ref: 10/622). There was a local needs occupancy condition attached to this permission.

Sites to north

- 4.7. Permission granted on adjoining site for a dwelling house, garage and septic tank and percolation area, (Reg. Ref: 02/764).
- 4.8. An outline permission had been granted in 2001 on the next site to the north for 2 no. dwelling houses with septic tanks and garages (Reg. Ref: 01/995).
- 4.9. Permission has then refused on the site further to the north (Reg. Ref: 03/313) for a dwelling, septic tank and percolation area. The reasons for refusal referred to the deficiency in width and alignment of the local road, and the proliferation of septic tanks and endangerment to quality of water from wells.

5.0 Policy Context

5.1. Roscommon County Development Plan, 2014-2020

- 5.1.1. The appeal site is located within a “Rural Area Under Strong Urban Influence”. Termonbarry is designated as a Tier 4 Settlement and the site is located 650m from the Village Core. It is a Core Objective (3.1) to define and map the village core and development boundary of the larger unzoned settlements, including Termonbarry, and to prepare a set of policies on the appropriate spatial land use. Policies 5.25 to 5.28 of Section 5.10.3 relate to Tier 4 Villages and Village Nuclei.
- 5.1.2. For the purposes of rural housing policy, County Roscommon is divided into two distinct areas. The appeal site is within Category C – Areas in Need of Regeneration in North Roscommon, where individual housing developments be facilitated in principle that meet the rural generated housing need criteria set out in the ‘Definition of Rural Generated Housing Need’ in Table 5.3, as well as urban generated housing development on a site specific basis in this area type. Policies and suitability criteria for rural area types are set out in Table 5.4.
- 5.1.3. Section 9.5 sets out rural siting and design development management guidelines and standards.

5.1.4. The site is within the Slieve Bawn and Feirish Bogland Basin Landscape Character Area, and within a landscape of very high value. In terms of character type, the site is within a river corridor.

5.2. **Sustainable Rural Housing Guidelines for Planning Authorities, 2005**

5.2.1. The principles set out in the Guidelines require that new houses in rural areas are sited and designed to integrate well with their physical surroundings and generally be compatible with:

- The protection of water quality in the arrangement made for on-site wastewater disposal facilities;
- The provision of safe means of access in relation to road and public safety; and
- The conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

5.2.2. The Guidelines recommend that Planning Authorities identify and locate rural area typologies which are under a strong urban influence, stronger rural areas, structurally weak, or made up of clustered settlement patterns. The appeal site is located in an area under strong urban influence.

5.2.3. The Guidelines recommend against the creation of ribbon development for various reasons including road safety, future demands for the provision of public infrastructure and visual impacts.

5.3. **Natural Heritage Designations**

5.4. The Ballykenny-Fisherstown Bog SPA and Lough Forbes Complex SAC are 1.6 km east of the site, and the Brown Bog SAC is approximately 4.4km east. Clooneen Bog SAC is 6.6km to the north and the Lough Ree SAC and SPA are approximately 8km to the south-west.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal has been lodged on behalf of the residents of the dwelling located to the south of the appeal site. The grounds of appeal and main points raised in this submission can be summarised as follows:

Public health and sewage treatment

- Appellant is concerned that the proposed wastewater treatment system and percolation area may impact on their well given the possible flow of groundwater to the south in the direction of their property. The geologist states that groundwater flow is unknown and the wastewater treatment system has been designed on the basis that it flows south-east.
- Observations and comments by applicant's geologist do not confirm if the ground conditions can suitably cater for the proposed wastewater system. There is a higher water table at other times of the year evidenced by appellant's photographs and the presence of rushes on the site.
- Hydrogeological Observation Assessment prepared for the appellant concludes that *"the proposed system and existing ground conditions do not conform to the EPA Code of Practice and therefore (the proposed development) should be refused."*
- Proposed dwelling has an occupancy of eight and the wastewater treatment system is designed for a PE of six.
- Pre-planning discussions in relation to site characterisation and percolation tests have not been made publicly available.
- Level of Shannon fluctuates by over 2m at Termonbarry sewage treatment plant – appeal site will be directly affected by the rising river level.

Roads and traffic issues

- Road Section Report states that the existing width and alignment of the road is poor, sightlines are deficient and the consent of 3rd parties are required to maintain sightlines.

- Condition attached to permission in relation to road safety is not enforceable.
- Planning Authority has previously refused permission under Reg. Ref: 03/313 on an adjoining site due to the deficiency of the road network. Under Reg. Ref: 04/108 the applicant was required to enter into a Section 47 Agreement due to the deficiency of the road network and views from the Shannon. This agreement on the appeal site is still in place.
- Road cannot accommodate 2-way traffic and the accumulation of bins at the top of the road is a road safety and amenity issue.
- Copy of Planner's Report sent to appellant recommends that further information be sought in relation to sightlines – this report is not on the planning file and there is no record of a decision not to accept this recommendation.

Residential amenity

- Proposed house is 1m higher than appellant's dwelling and is on higher ground – this will increase the dominating effect of the proposed dwelling and overlooking of the appellant's property.

Rural housing policy

- Development Plan Maps 11 & 12 identifying rural housing are contradictory and misleading – site sits in two diametrically opposed area categories (area under strong urban influence and area in need of regeneration).
- There is no restriction within the category chosen by the Council (Category C) when it comes to the assessment of housing need.
- Free for all policy towards urban generated housing need in Category C is contrary to national policy – growth of Termonbarry over the past 15 years would indicate that the site is within an area under urban influence.
- Regional Planning Guidelines have an objective "*to minimise sprawling development of towns/ villages so as to create consolidated town/ village form*" – proposal would contribute to ribbon development.

Other

- Applicants are prospective buyers of the site and have not provided evidence of the requirement for the proposed development and local need. This will be the landowners third sale within this landholding.
- Drainage by means of soak pits on waterlogged lands is impractical and therefore Condition 4 cannot be enforced. Developer cannot carry out drainage works on the public road.
- There is no evidence presented on file that a potable water supply can be obtained.
- Introduction of trees adjacent to the proposed percolation area contravenes the EPA's Code of Practice.

6.2. Applicant's Response to Third Party Appeal

6.2.1. The applicant's agent responded to the third party appeal with the following comments:

- Development Plan sets out that pressure for urban-generated housing in the area of the appeal site is normally less, accepting the principle of urban-generated housing on a 'site-specific basis'.
- Attached report by geologist states that *"the site suitability assessment conducted on site, as well as the proposed design recommendation for wastewater treatment, fully conforms with the EPA Code of Practice, 2009"*.
- Wastewater treatment system must be designed for a PE of 6 and this has been carried out.
- Matters raised in the appeal relating to water table extending close to ground level is unsubstantiated and without proof – proposed wastewater treatment system will provide suitable treatment.
- Proposed entrance provides reasonable visibility on either approach – sightlines of 38m to the north and 51m to the south are available and this is considered adequate given the limited number of houses and related traffic, and slow speeds due to the road width.

- Issues relating to refuse collection is a matter relating to company collection policy.
- Where no building line exists, an infill dwelling should take a stepped approach as proposed.
- There is some 40m distance between the first floor windows between the proposed dwelling and appellant's dwelling – overlooking would not detract from the residential amenity of either parties.
- Proposal consists of an infill dwelling where two others already exist, followed by the landowner's house bringing the total to four.
- Applicants do not need to prove a rural-generated housing need in order to be favourably considered for a dwelling at this location.
- Reg. Ref: 04/2127 was granted on 25th January 2006 and therefore Section 47 Agreement expired on 24th January 2016.
- Proposed dwelling is 210mm higher than the adjoining dwelling to the north-west which is negligible, and the step down approach with appellant's dwelling ensures that the proposal will not detract from appellant's residential amenity.
- Proposal will not detract from the visual amenities of the area - view of the proposed dwelling from the Shannon would be localised.

7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Rural housing need;
- Wastewater treatment and disposal;
- Access;
- Design, layout and visual impacts; and
- Appropriate Assessment

7.2. Rural Housing Need

- 7.2.1. In my opinion, there are a number of anomalies with respect to the location of the site and the Council's policy for rural housing need. Firstly, the site is located within a rural area under strong urban influence. It is stated within the Rural Housing Guidelines that *"the key development plan objectives in these areas should be 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."* There is a presumption, therefore, against urban-generated one-off housing in rural areas.
- 7.2.2. Notwithstanding the fact that the site is within a rural area under strong urban influence, the Development Plan divides County Roscommon into two very broad areas for the purposes of rural housing. Other than local area plan/ area plan envelopes, all of the south of the County is designated as "Areas under Urban Influence" and all of the north of the County are "Areas in Need of Regeneration". It is, however, recognised that there are some weaker rural areas in the south of the County, as well as some stronger rural areas in the north. The appeal site, situated in the northern part of the County, is one such area and this is evidenced by the fact that the electoral division, within which the appeal site and the village of Termonbarry are located, was one of only a small number in the entire County that recorded a population increase in excess of 20% between 2006 and 2011.
- 7.2.3. Conversely, the site is within Rural Policy Category C (Areas in Need of Regeneration) which *"...constitutes the north Roscommon countryside which has only moderate and localised urban influences from the key towns of Boyle, Ballaghaderreen, Castlerea, Strokestown and the external settlements of Carrick-On Shannon and Sligo. The pressure for urban generated housing development is typically lower in these areas and housing vacancy in towns and villages, and urban and village decline is more prevalent. In this context it is considered that individual housing development be facilitated in principle in these areas. This includes individual rural housing which meets the rural generated housing need criteria set*

out in the 'Definition of Rural Generated Housing Need (See Table 5.3) as well as urban generated housing development on a site specific basis in this area type.'

- 7.2.4. It is assumed that the planning application is being submitted as an urban generated house on a site specific basis, as there is no information to satisfy rural generated housing needs criteria. Urban generated housing need is defined in the Development Plan as demand for housing in rural areas generated by *"persons principally living and working in urban areas, including second homes. Urban-generated housing needs will be accommodated in towns and villages and in principle on a site specific basis in rural areas within Rural Policy Area Category C."*
- 7.2.5. Policies and suitability criteria for each of the rural area types is set out in Table 5.4 of the Development Plan. It is a policy within Category C areas *"to accommodate urban-generated housing need on a site specific basis (as identified in Map 7) within this Category subject to good planning practice."* Furthermore, and somewhat contradictorily, it is a policy under this Category *"to reinforce and support the existing and/or emerging network of towns, villages and other settlements in rural areas."*
- 7.2.6. I would be of the view in this instance that it is not good planning practice to locate urban generated rural housing in such close proximity to an established village. It is not possible to reinforce and support the Tier 4 village of Termonbarry on the one hand while accommodating urban generated rural housing at a short distance from the village. The Core Strategy for the Development Plan seeks to curtail the undue proliferation of one-off housing units in the countryside in areas outside settlement centres that are experiencing development pressure, and I consider that the proposal is contrary to this aim.
- 7.2.7. The population of the Termonbarry Electoral Division grew by 75% between 2001 and 2011 and therefore I would be of the view that this area cannot realistically be categorised as an "Area in Need of Regeneration" rather than an "Area under Urban Influence" for the purposes of rural housing policy. Moreover, the Termonbarry Small Area had a high housing vacancy rate in 2011 with 53% of dwellings unoccupied and therefore housing supply does not appear to be an issue in the village. Finally, it should be noted that there is adequate capacity for anticipated growth over the Development Plan period in Termonbarry; the wastewater treatment plant has recently been upgraded and where the Council has invested in the

provision of infrastructure and services in settlements, it is considered appropriate that the use of these should be optimised.

- 7.2.8. Having regard to the above, I consider that the proposal for an urban generated dwelling at this rural location in proximity to a Tier 4 settlement would be contrary to the policy for Category C areas which seeks *“to reinforce and support the existing and/or emerging network of towns, villages and other settlements in rural areas.”*

7.3. Wastewater Treatment and Disposal

- 7.3.1. Permission was refused for a dwelling at this location in May 2015 on the grounds that it had not been adequately demonstrated to the Planning Authority that the site is suitable for the disposal of effluent by means of a proprietary treatment system (Ref: 14/370). Permission was also refused at an earlier date for a dwelling to the north of the appeal site for reasons relating to the proliferation of septic tanks in the area and endangerment to quality of water from wells.
- 7.3.2. The third party appellants in the current case are the residents of the dwelling located immediately to the south of the appeal site. They are concerned that the proposed wastewater treatment system and percolation area may impact on their well given that the possible flow of groundwater is to the south in the direction of their property. In addition, the appellants are not satisfied that ground conditions can suitably cater for the proposed wastewater system. In this regard, it is submitted that there is a higher water table at other times of the year and this is evidenced by photographs submitted with the appeal and the presence of rushes on site.
- 7.3.3. I note that when permission was refused previously on site, the report of the Environmental Section stated that the site had not been observed without water in test holes. Furthermore, GSi records the subsoil as having low permeability and there are indications of a seasonally high water table. The inspection of the site by the Environmental Section for the previous application occurred on 6th May 2015. Water was also observed in the trial hole and test holes on another inspection for this application. The appellant's have submitted photographs taken on November 2015 and January and April 2016 showing water almost up to ground level within the trial holes. The site was visited by the applicant's geologist and it is stated unsaturated topsoil and subsoil to a depth of 0.5-0.6m was available on 12th

November 2015. The site characterisation form records the depth from the ground surface to water table of 1.1m on 1st August 2015.

- 7.3.4. The report from the Environmental Section for the current application states that the trial holes had a water table of approximately 1.1m below ground level and all test holes were free of water. The Environmental Section is satisfied that there will be 0.3m of free draining soils available and that the proposal to construct a raised percolation area with imported soil will add to the ability of the site to deal with waste effluent.
- 7.3.5. In my opinion, there would appear to be considerable variations within the water table at this location and I do not consider that it is appropriate to design a wastewater treatment system on the basis of water table findings at one particular moment. The site was assessed in the summer when the water table would have been low. However, there is sufficient evidence of a seasonally high water table, and as noted in the EPA's Code of Practice, an on-site domestic wastewater treatment and disposal system should not be installed in a flood plain or in seasonally waterlogged, boggy or frequently wetted areas.
- 7.3.6. In addition to the above, I would also have concerns with the emerging density of dwellings in this area with associated wastewater treatment systems. Groundwater vulnerability is high in this area and there may be potential for impacts on groundwater due to cumulative loading. Finally, as noted above, the site is in close proximity to Termonbarry which is served by public sewerage with sufficient capacity.

7.4. Access

- 7.4.1. Access to the site is via a local road that commences at a "T" junction with the N5 approximately 670m north of the appeal site. The road becomes narrower on the approach to the appeal site and the horizontal alignment limits forward visibility. The road currently serves the surrounding agricultural lands and approximately 11 no. dwellings. There is a single dwelling further to the south of the appeal site.
- 7.4.2. It is noted in the Roads Section Planning Report that there is poor road alignment and widths and the available sightlines from the proposed entrance (51m to the south and 38m to the north) are well below the local requirement of 90m in each direction. However, it is not considered likely that the proposed development would

give rise to a significant traffic hazard having regard to the limited volumes of traffic using the road and the low traffic speeds.

- 7.4.3. It should be noted that permission was refused on a site further to the north (Reg. Ref: 03/313) for a dwelling for reasons relating to deficiency in width and alignment of the local road. Furthermore, the current proposal is for an urban generated dwelling and therefore it is anticipated that most movements to and from the site will be by private car. I agree, however, that the proposal will not give rise to serious traffic safety issues. I would also be satisfied that there are adequate sightlines available onto the N5.

7.5. Design, layout and visual Impacts

- 7.5.1. In terms of design and scale, the proposed dwelling will be similar to the existing dwelling to the south. The dwelling will have a contemporary appearance with a number of rural design features.
- 7.5.2. The proposed dwelling has been reduced in scale compared to the previous proposal for a 324 sq.m. structure. However, the dwelling will still have a significant presence and if the Board is minded to grant permission, I would suggest that the proposed landscaping plan is further augmented. I observed that the adjoining dwellings are visible from the local road to Cloondara on the opposite side of the River Shannon and the proposed dwelling will also contribute to the linear built form at this location. It should be noted that the site is within the Shannon corridor which is a landscape of very high value as designated within the Landscape Character Assessment.
- 7.5.3. There is a general presumption in the Development Plan against ribbon development and urban sprawl. Ribbon development is a high density of almost continuous road frontage type development, which is considered undesirable in terms of traffic safety, water supply, drainage, footpaths and street lighting, and intrusion on public views and the enjoyment of the countryside.
- 7.5.4. The proposed dwelling will be the fourth along one side of a 200m frontage and will therefore contribute to the emergence of this development pattern and the associated adverse impacts described above.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. I recommend that planning permission should be refused for the following reasons and considerations.

9.0 **Reasons and Considerations**

1. It is a policy of the current Roscommon County Development Plan *“to reinforce and support the existing and/or emerging network of towns, villages and other settlements in rural areas.”* This policy is considered reasonable. The proposed development for an urban generated dwelling located in a “Rural Area Under Strong Urban Influence” and in close proximity to the Tier 4 settlement of Termonbarry, which has adequate available housing stock/ serviced lands, would contravene the above policy and would be contrary to the aims of the “Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the areas.
2. Having regard to evidence of a seasonally high water table at the location of the proposed development, the Board is not satisfied, on the basis of the information submitted with the planning application and appeal, that the site can be drained satisfactorily by means of the proposed proprietary wastewater treatment system. Furthermore, the Board considers that taken in conjunction with existing development in the vicinity, the proposal would result in an excessive concentration of development served by individual wastewater treatment systems, and would constitute an unacceptable risk of groundwater pollution

connected with the disposal of wastewater. The proposed development would, therefore, be prejudicial to environmental and public health.

3. Taken in conjunction with existing development in the area, the proposed development would constitute an excessive density of suburban-type dwellings in a rural area, which would militate against the preservation of the rural environment. Furthermore, the proposed development would contribute towards undesirable ribbon development in a rural area outside lands zoned for residential development and would, therefore, be contrary to the proper planning and sustainable development of the area.

Donal Donnelly
Planning Inspector

31st January 2017