



An
Bord
Pleanála

Inspector's Report PL02.247842

Development	House, garage and all associated site works.
Location	Teeboy, Corlough, Belturbet, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	16/297
Applicant	Joseph and Fiona Prior
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	An Taisce
Observer(s)	None
Date of Site Inspection	7 th April 2017
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.47ha, is located in the townland of Teeboy, c. 4km west of Bawnboy village in north-west Cavan. The appeal site is located on the southern side of a narrow local road (L5035) to the east of the R202 Regional Road. The site is located in a rural area characterised by undulating drumlin topography and numerous lakes, with the nearest lake being Bunerky Lough, c. 0.5km to the east.
- 1.2. The appeal site is irregularly shaped and is bounded by the local road to the north, hedgerows to the west, while the eastern and southern boundaries are currently undefined. The site has a road frontage of c. 50m and incorporates a steep upward slope from the roadside southwards. The site mainly comprises undeveloped grassland, with a c. 20m deep strip of deciduous planting along the northern portion of the site. This portion of the site also incorporates the most pronounced upward slope. The southern portion of the site is elevated with a less pronounced slope. A lower lying field and a local road (L5074) running in a north-south direction are located to the east of the site, while there is a small stream/watercourse along the northern boundary of the site. There are no dwellings immediately adjacent to the site, with the nearest dwellings being located c. 100m to the south east and c. 120m to the north west respectively.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a storey and a half house with a detached garage, sewage treatment unit, percolation area, entrance walls and piers and all associated works.
- 2.2. The proposed house is centrally located within the site with an east-west orientation (front elevation facing east). It has a ridge height of c. 7.1m and a total floor area of c. 262 sq m with the main living accommodation at ground floor and four bedrooms at first floor level. A single storey sun lounge is located on the southern side elevation. The house features two dormer windows on the front elevation as well as a projecting gable element, while there are three dormer windows on the rear elevation. The finishes comprise off-white wet dash to the walls, blue/black slate or concrete tiles and PVC windows. A detached single storey garage with a floor area

of 44 sq m is proposed to the north west of the house, and features the same finishes.

- 2.3. The proposed house and garage are surrounded by a hardstanding comprising permeable paving blocks and the house is accessed via a driveway which meanders with the site contours in order to reduce the gradient of the driveway.
- 2.4. A wastewater treatment system and percolation area is proposed to the south of the house. Soakaway trenches are also proposed to cater for surface water runoff from roofs and hard surfaced areas. With regard to water supply, it is proposed to connect to Corlough Group Water Scheme.
- 2.5. It is also proposed to set back the entrance to the house from the public road in order to improve sightlines and to provide a 10m x 3m area on each side of the entrance to provide a vehicle passing point.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Cavan County Council decided to grant planning permission, and the following conditions are of relevant:
 - C3: Seven-year occupancy condition.
 - C5: Detailed requirements for area between entrance and public road.
 - C6 and C7: Arrangements for surface water management and roadside drainage.
 - C12: Details of wastewater treatment system to be agreed with Planning Authority.
 - C13: Existing mature hedging and trees to be retained where possible.
 - C14: Garage for private and domestic purposes only.

3.2. Planning Authority Reports

- 3.2.1. The Planning Officer's report to the Senior Planner can be summarised as follows:

- No requirement for Appropriate Assessment as the proposal would not impact on any Natura 2000 sites.
- House design has not changed from previous application.
- Site is elevated and visible from the L5074, which the dwelling faces.
- L5035 is a narrow local road with relatively poor surface and low traffic.
- Applicant has a genuine local need and local links and has attempted to obtain a dwelling in the area for some time.
- This is a structurally weak area.
- Site is locally elevated and exposed but is not visible from a wide area.
- Amount of hard landscaping proposed under the 15/268 application has been reduced.
- Visual impact would be offset by planting.
- Previous Board refusal reasons have been adequately addressed.
- Grant of permission recommended.

3.2.2. The Senior Planner subsequently prepared a report, which can be summarised as follows:

- Application does not adequately address previous reason for refusal No. 1, relating to visual impact.
- Area Engineer's report recommending approval is noted in respect of refusal reason No. 2.
- Further information sought: Planning Authority concerned that development would adversely impact on visual amenities. Applicant requested to submit revised proposals.

3.2.3. The further information submitted did not include revised proposals, but instead included a justification for the proposed development with regard to policy. The subsequent Planning Officer's Report considered that the further information response was satisfactory.

3.3. Other Technical Reports

- None.

3.4. Prescribed Bodies

3.4.1. An Taisce

- Evaluation required to ensure that all issues from previous refusal have been resolved.
- Due to elevated nature of site, ensure that all watercourses and springs are identified.

3.4.2. Inland Fisheries Ireland

- Wastewater treatment system required.
- Watercourses should be protected.
- Construction management measures required to prevent introduction of invasive species, damage to watercourses from sediment run-off, spillages etc. Bunding of fuels, oils, etc.
- Re-planting should use native species to maintain biodiversity.

3.5. Third Party Observations

- None.

4.0 Planning History

4.1. Appeal Site

4.1.1. PL02.245490 (Reg. Ref. 15/268)

The Board refused planning permission in January 2016 to Joseph and Fiona Prior for a house, garage and associated site works, following a third party appeal by An Taisce. The two reasons for refusal can be summarised as follows:

1. The proposed development would be contrary to the Rural Design Guide and would adversely impact on the visual amenities of the area. The Board was

not satisfied that more suitable lands do not exist within the applicant's landholding.

2. The proposed development is located on a minor road which is seriously substandard in terms of width and alignment. Traffic generated would endanger public safety by reason of traffic hazard and obstruction of road users and set an undesirable precedent.

4.2. **Surrounding Area**

- 4.2.1. I am not aware of any relevant planning history in the surrounding area.

5.0 **Policy Context**

5.1. **Cavan County Development Plan 2014-2020**

- 5.1.1. The site is governed by the policies and provisions contained in the Cavan County Development Plan 2014-2020.
- 5.1.2. Section 2.7 of the Plan sets out policies and objectives in relation to rural settlement. In terms of rural generated housing, the Planning Authority considers that the following broad categories constitute a rural generated housing need.
 - (a) Persons who are an intrinsic part of the rural community.
 - (b) Persons who have spent substantial periods of their lives living in rural areas as members of the established rural community (e.g. farmers, their sons, their daughters and any person taking over the ownership and running of farms as well as people who have lived most of their lives in rural areas and are building their first homes).
 - (c) Returning emigrants who lived for a substantial part of their lives in rural areas then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members or to retire.
 - (d) Persons originally from the local rural area who wish to return.
 - (e) Persons currently residing in the rural area and who can demonstrate a requirement for a permanent residence there.

- (f) Persons who need to reside near elderly parents to as to provide security, support and care or elderly people who need to reside near immediate family.
- (g) Persons who are working full-time or part-time in rural areas.
- (h) Persons involved in full-time farming, forestry, inland waterway or related occupations as well as part-time occupations where predominant occupation is farming or natural resource related.
- (i) Persons whose work is intrinsically linked to rural areas such as teachers in rural schools.
- (j) Persons who are employed in rural areas and can suitably demonstrate that they will continue to do so for the foreseeable future.

5.1.3. Policy **RHP1** states that rural-generated housing needs should be accommodated in the locality in which they arise and where the applicant comes within the development plan definition of need, subject to satisfying good planning practice in matters of location, siting, design, access, wastewater disposal and the protection of environmentally sensitive areas and areas of high landscape value.

5.1.4. The site is located in an area designated as a structurally weak area. These areas exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure. These areas, to a large extent correspond with designations of high visual and scenic amenity and otherwise vulnerable areas such as EU designated sites. The capacity of the landscape to absorb development will be a major consideration in the assessment of proposals in such areas. The key objective for structurally weak areas is to accommodate any demand for permanent residential dwellings, subject to good planning practice.

5.1.5. The following Objectives are noted:

- **RH012** seeks to facilitate proposals for permanent residential development in structurally weak areas in order to tackle declining population levels.
- **RH013** seeks to implement a programme to monitor the operation of settlement policies on an on-going basis to avoid excessive levels of inappropriate located development.

5.1.6. The site is located c. 4km south east of a designated High Landscape Area (HL1), which is referred to as 'Uplands Areas of West Cavan', and c. 1.7km south west of Brackley Lough, which is designated as a Major Lake and Environs.

5.1.7. There are five landscape character areas in Cavan, and the appeal site is within Area 1, known as the Cuilcagh-Anierin Uplands of West Cavan. Policies NHEP19 and NHEP20 and Objectives NHEO22-NHEO25 seek to protect landscape character.

5.2. **Design Guide for Single One-off Houses within the Cavan Rural Countryside**

5.2.1. The Design Guide sets out the landscape characterisation of County Cavan, and notes in respect of the Cuilcagh-Anierin Uplands of West Cavan that the landscape character of this area comprises of open unenclosed treeless upland hill country with occasional isolated farms and outbuildings sited in shallow valleys are under the lee or ridgelines. The landscape is extremely fragile and sensitive to incompatible and unsympathetic development. The vernacular architecture of this area reflects this rugged exposed environment consisting mostly of single storey stone-built cottages and farmhouses and farm buildings. Shelter from prevailing winds would have been an important consideration in the siting of dwellings rather than views which is more common today. Shelter would have been provided by choosing low-lying locations using outbuildings to surround the dwelling and using existing hedgerows and trees for shelter.

5.2.2. Section 1 relates to site selection for the purposes of constructing houses in the countryside. It states that construction of houses on elevated and exposed sites which would be obtrusive and will reduce the visual character of the rural area will not be permitted. It also states that north facing slopes and elevated areas should be avoided.

5.3. **Sustainable Rural Housing Guidelines for Planning Authorities 2005**

5.3.1. The Rural Housing Guidelines seek to provide for the housing requirements of people who are part of the rural community in all rural areas, including those under strong urban based pressures. The principles set out in the Guidelines also require that new houses in rural areas be sited and designed to integrate well with their

physical surroundings and generally be compatible with the protection of water quality, the provision of a safe means of access in relation to road and public safety and the conservation of sensitive areas.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third party appeal was made by An Taisce. The ground of appeal can be summarised as follows:

- Application has not adequately addressed previous reasons for refusal by the Board.
- Site is unsuitable for development due to its elevated nature and the condition of the surrounding road network.
- Site does not have capacity to absorb proposed development and it is contrary to policies and guidelines set out in the Development Plan, Design Guide for Single One-off Houses within Cavan Rural Countryside and the Sustainable Rural Housing Guidelines.
- Development within a structurally weak area is subject to good practice in terms of siting and location.
- Proposed development will have visual impact due to elevated nature of the site and surrounding landscape characteristics and designations
- Adequate regard was not had to long-range views from Bunerky Lough, as identified in previous Board Inspector's Report.
- House design has not significantly changed from previously refused design. Only change is height reduction of 0.7m and landscaping which does not mitigate against visual impact in a sensitive location.
- Planning Authority sought a revised proposal by way of request for further information due to the adverse impact on the visual amenities of the area. However, no revised proposal was submitted.

- Due to the elevated site and location of proposed development, a further inspection of drinking water springs on adjoining lands to the east should be carried out.
- Standard of roads has not changed since previous refusal. The roads remain substandard in terms of width and alignment and the proposed development would endanger public safety by reason of traffic hazard.

6.1.2. The Board should note that An Taisce is seeking expenses for their appeal under section 145 of the Planning and Development Act 2000, as amended. They seek the return of the €110 appeal fee, and note that their costs were awarded in respect of the previous appeal on this site (Ref. PL02.245490).

6.2. **Planning Authority Response**

6.2.1. The Planning Authority's response can be summarised as follows:

- Site is locally elevated and exposed but visual impact would be offset by proposed screening and would not impact on Cuilcagh Anierin Uplands of West Cavan.
- Site Suitability Assessment found that site was suitable for wastewater treatment.
- Municipal District Engineer considers proposed development to be acceptable with regard to low traffic volumes, achievable 50m sight distances and additional clearances.
- Applicant has a genuine local need and local links and family has lived in area for five generations.
- Appeal site is in a structurally weak area.
- Board is asked to uphold the decision of the Planning Authority.

6.3. **Observations**

- None.

6.4. Applicants' Response to Appeal

6.4.1. The applicants' response to the appeal can be summarised as follows:

- Reasons for site selection are outlined in Design Concept Statement submitted with application.
- Response to further information outlines how dwelling conforms to Design Guide for housing in Cavan. Topographical surveys, 3D site models and photomontages demonstrate this.
- Photomontages and aerial map show available views and negligible visual impact.
- Proposal to provide a passing point at the entrance enhances road safety.
- Road is a local access road with very low number of traffic movements.
- A number of farms using this access road have been given over to forestry and a number of homes vacated in recent years, which reduces traffic movements.
- Local school and GAA club are struggling to maintain numbers. Applicant has strong ties to the locality and wishes to contribute to the local community which needs numbers to sustain it.

6.4.2. The applicants included copies of the response to the request for further information and the Design Concept Statement, as submitted with the planning application, with their response to the appeal.

7.0 Assessment

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

- Compliance with Rural Housing Policy.
- Visual Impact.
- Access and Traffic.
- Water and Wastewater.
- Appropriate Assessment

7.2. Compliance with Rural Housing Policy

- 7.2.1. The appeal site is located in a structurally weak area and it is an objective of the Development Plan to facilitate proposals for permanent residential development in such areas in order to tackle declining population levels.
- 7.2.2. It appears from the information submitted with the planning application that one of the applicants (Joseph Prior) has strong and long-term ties to the area and is involved in the local GAA club and heritage group. Mr Prior works as a part-time farmer on the family's landholding which is adjacent to the appeal site, as well as being employed as a factory operative in Derrylin, Co. Fermanagh.
- 7.2.3. The cover letter submitted with the application states that there was a lack of alternative sites on the family landholding due to poor percolation, presence of a ringfort, road frontage/access issues and topography.
- 7.2.4. Taking the information submitted with the application into account, I consider that the applicants have satisfied the relevant provisions of section 2.7 of the Development Plan and have demonstrated that they are an intrinsic part of the rural community. However, while the applicants have demonstrated compliance with the Development Plan requirements for rural generated housing need, I note that as stated in both the Development Plan and the Rural Housing Guidelines for Planning Authorities, the acceptability of any individual housing proposal is subject to compliance with good planning practice.

7.3. Visual Impact

- 7.3.1. The Board previously refused permission on this site on the basis that the proposed development would be contrary to the Rural Design Guide and would adversely impact on the visual amenities of the area. The applicants have sought to address this previous reason for refusal by: providing a site justification; slightly lowering the ridge height and finished floor level; reducing hard landscaping; and by increasing the amount of planting proposed. This is illustrated in the site sections, 3D cutaways and photomontages submitted with the application.

- 7.3.2. An Taisce contend that the proposed development will have an adverse visual impact due to the elevated nature of the site and the surrounding landscape characteristics and designations.
- 7.3.3. The appeal site is located within an area identified as the Cuilcagh-Anierin Uplands of West Cavan, which is considered in the Design Guide for Single One-off Houses within the Cavan Rural Countryside to be an extremely fragile and sensitive landscape character area. Having undertaken a site inspection, I consider the character of the appeal site not to be typical of this landscape character area, and in my opinion the site could be considered as part of a transition area between the unenclosed treeless upland hill country to the north west, which defines the Cuilcagh-Anierin Uplands of West Cavan landscape character area, and the more typical drumlin/lakeland landscape to the east and south. Due to its transitional nature, I do not consider the site to be as fragile as the unenclosed hill country, but nevertheless it is an elevated and sensitive site with limited capacity to absorb development.
- 7.3.4. The proposed house would be located on the most elevated part of the site, above the band of trees and vegetation which runs adjacent to the roadway. This existing planting is generally deciduous and in poor condition, and provides limited screening in the winter/spring period. It will also be affected by the considerable excavation works that would be required to provide the proposed set-back site entrance and circuitous driveway (due to the steep incline). I note that the finished floor level of the proposed house would be c. 6 – 7 metres above the level of the local road, and that it would have a ridge height of c. 7.1m. I consider that the house would break the skyline when viewed from numerous locations in the vicinity, and that the existing planting would not be sufficient to adequately screen the development. While the applicants are proposing additional screening planting, and have submitted 3-D cutaways and site sections in this regard, I consider that the elevated nature of the site would still result in the house being highly visible from the surrounding area, particularly in winter and spring.
- 7.3.5. The Development Plan and Rural Housing Design Guidelines state that the placement of houses on elevated and exposed sites which would be obtrusive will reduce the visual character of the rural area and will not be permitted. Section 10.14.3 of the Development Plan also states in respect of one-off dwellings that it is

essential that care is exercised in the siting and design of new buildings to ensure that they can integrate harmoniously with their surroundings and thereby protect the amenity and character of the countryside of County Cavan.

- 7.3.6. Having regard to the scale, height and massing of the proposed house and its location on an elevated and exposed site, I consider that it would have an adverse impact on the visual amenities of the area, as it would not integrate harmoniously with its surroundings and would form an intrusive and discordant feature on the landscape.
- 7.3.7. In addition to the house itself, the applicants are proposing to provide a setback site entrance with a 10m wide by 3m deep macadam paved area either side of the entrance to act as a passing area for vehicles. This will require the removal of numerous mature trees and allied with the circuitous access road will result in a significant amount of excavation, due to the steeply sloping land in this part of the site. This will result in an entrance point off the narrow local road which is c. 32m wide and which will be cut into the hillside. I consider this proposal to be excessive with regard to the context of the site and I consider that it will be visually obtrusive and detrimental to the visual amenities of the area.
- 7.3.8. In conclusion, I recommend that the Board refuse planning permission on the grounds of visual impact.

7.4. Access and Traffic

- 7.4.1. The previous planning application on the site was refused on the basis that the proposed development was located on a substandard minor road and would endanger public safety by reason of a traffic hazard and obstruction to road users.
- 7.4.2. The applicants have sought to address the previous reason for refusal by setting back the site entrance in order to improve sightlines and to provide a 10m x 3m paved area on both sides of the entrance to provide a passing point for vehicles. Both the applicants and the Planning Authority also note that the road experiences low volumes of traffic.
- 7.4.3. Having inspected the site, it is clear that there has been no significant change or improvement to the standard of the local road since the time of the previous application. The road is extremely narrow, with a width of c. 3m in the vicinity of the

site and it also has poor vertical and horizontal alignment which serves to significantly reduce sightlines in a number of locations along its length. The road is also in poor condition, with grass growing in the centre of the carriageway and localised failure of the road edge in many areas.

- 7.4.4. There are currently few locations in the vicinity of the appeal site where a vehicle can safely pull in to allow a vehicle travelling in the opposite direction to pass. This is due to the topography of the area, the heavy vegetation extending to the road edge and the presence of watercourses/drainage ditches along both road edges. While the applicants have sought to provide such a passing area at the site entrance, I do not consider that this addresses the issue adequately, as once one leaves the site, the same issue would still arise. While I concur with the applicants that the road experiences low traffic volumes, it remains a substandard road and is not suitable in my opinion for additional residential development in its current condition. I therefore consider that the Board should refuse planning permission for the proposed development on the grounds that the access road serving the site in question is substandard in terms of width and alignment and would result in a traffic hazard.

7.5. Wastewater Management

- 7.5.1. Section 2.0 of the Site Characterisation Form submitted with the application indicates that the aquifer category is Locally Important with high vulnerability, while the comments box indicates that it is Poor with moderate vulnerability. Having consulted the GSI mapping, the aquifer category is LI, with high vulnerability, which results in a groundwater protection response of R1, indicating that a wastewater treatment system is acceptable subject to normal good practice.
- 7.5.2. On my site inspection the ground was relatively soft and wet underfoot with extensive areas of rushes, which given the elevated and sloping site would appear to indicate poor drainage. A small stream/ watercourse is also located along the northern boundary of the site at the road edge.
- 7.5.3. The trial hole was dug to a depth of 2.1m, and no water table or bedrock was encountered. The soil comprised a shallow top layer of clay overlying silt/clay to a depth of c. 0.6m with sandy silt below.

- 7.5.4. The T-test result was 13.75 min/25mm and the P-test result was 37.61 min/25mm. No water table or mottling was encountered in the trial holes. These results indicate that the site is suitable for a conventional wastewater system with underground percolation area. However, there appears to be some confusion with regard to the actual wastewater treatment system proposed. While the recommendation in the Site Characterisation Form is for a conventional septic tank rather than a secondary treatment system, the proposed site drawing No. 16-47-01 states 'biocycle or puraflo secondary treatment unit' while the application cover letter states that it will be a 'Klargester Biodisc' system.
- 7.5.5. I also note that the calculation for length of percolation trench required is based on a four-bedroom house, giving a design population equivalent of 6, as per the 2013 clarification to the EPA's code of practice. However, an additional 'bedroom/playroom' is indicated at ground floor level, giving a design population equivalent of 7, which is noted at Section 1.0 of the Site Characterisation Form. The result of this is that an additional 18m of percolation trench is required.
- 7.5.6. Notwithstanding the above, I am satisfied that the T-test and P-test results demonstrate that the site can accommodate a wastewater treatment system with a percolation area, and I recommend that if the Board is minded to grant permission, that a condition be included requiring revised details of the wastewater treatment unit and percolation area to be submitted for the agreement of the planning authority.

7.6. **Water**

- 7.6.1. The appellant states that due to the elevated site location a further inspection of drinking water springs on adjoining lands to the east should be carried out. This issue was also raised in the previous appeal on this site, and the appellant has not expanded upon or identified the location of the drinking water springs that they are referring to.
- 7.6.2. I saw no evidence of any wells or springs in the area to the east of the appeal site on my site inspection and I note that the Site Characterisation Form submitted with the application states that there are no wells within 250m of the site. The applicants are proposing to connect to a group water scheme rather than using a well, and the testing undertaken in connection with the Site Characterisation Form indicates that

the site has suitable percolation characteristics to allow effluent to be treated to a sufficient standard so as not to pose a threat to any nearby water supplies. I am therefore satisfied that the proposed development would not result in a significant impact on any drinking water springs in the vicinity of the appeal site.

7.7. Appropriate Assessment

- 7.7.1. The nearest designated Natura 2000 Sites are the Cuilcagh-Anierin Uplands SPA (Site Code 00584) which is c. 5km to the west of the site and the Lough Oughter and Associated Loughs SAC (Site Code 0007) which is c. 11.5km to the east. There are no hydrological, hydrogeological or other links between the site and these designated European Sites. Furthermore, based on the evidence presented I am satisfied that any wastewater discharged from the site will be appropriately attenuated prior to reaching water bodies. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and the distances to the nearest European sites, I am satisfied that 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.

8.0 Recommendation

- 8.1. I recommend that planning permission should be REFUSED for the reasons set out below.

9.0 Reasons

1. Having regard to the topography of the site, the elevated and exposed positioning of the proposed dwelling, together with its overall design and scale, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located on a minor road which is seriously substandard in terms of width and alignment. The traffic generated by the proposed development would endanger public safety by reason of a traffic hazard and obstruction to road users.

Niall Haverty
Planning Inspector

20th April 2017