



An
Bord
Pleanála

Inspector's Report ABP-300350-17

Development

Detached two storey dwelling house and proprietary on-site wastewater treatment system with percolation area and on-site stormwater attenuation ponds; and renovation and extension of existing stone shed for use as stables and replacement vehicular access to the proposed stables including re-aligned boundary wall

Location

Camcloon, Ballydangan, Athlone, Co. Roscommon

Planning Authority

Roscommon County Council

Planning Authority Reg. Ref.

PD/17/384

Applicant(s)

Helen Breen

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Helen Breen

Observer(s)

None

Date of Site Inspection

6th February 2018

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located mid-way between Ballinasloe and Athlone, southeast of the M6, in Co. Roscommon. The site is located in the townland of Camcloon in a predominantly rural location.
- 1.2. The site, which has a stated area of 1.476ha, comprises an agricultural field, with a stone shed/agricultural building on site. There were two ponies occupying the site at the time of site inspection. An existing stream runs along the western boundary of the site and transects the southern portion of the site. The site is bound to the west by a local primary route L-2039-0 and to the north by a local tertiary route L-75894-0.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of a detached three bed dwelling, 314sqm in area.
 - Proprietary wastewater treatment system.
 - On-site stormwater attenuation ponds.
 - Renovation and extension of existing stone agricultural shed for use as stables, 156 sqm in area and replacement vehicular access, including realigned boundary wall.

I note under the grounds of appeal from the applicant, the stormwater attenuation ponds have been omitted from the development.

3.0 Planning Authority Decision

3.1. Decision

REFUSED for the following reasons:

R1: The proposed development is located in a rural area under urban influence (Category B-Areas Under Urban Influence) as defined in Section 5.11 of the Roscommon County Development Plan 2014 – 2020. It is the policy of the County

Development Plan to restrict housing in this area to those who are intrinsically part of the rural community or who have an occupation predominantly based in the rural community. The Planning Authority is not satisfied, based on the information submitted, that the applicant meets the criteria for rural generated housing in accordance with the Sustainable Rural Housing Guidelines, and Table 5.3 of the Roscommon County Development Plan 2014-2020. The proposed development would, therefore, be contrary to Section 5.11 and Policy 5.29 the Roscommon County Development Plan 2014-2020 and to the Sustainable Rural Housing Guidelines issued to planning authorities.

R2: The Planning Authority is not satisfied on the basis of the information submitted, that adequate visibility can be achieved from the proposed entrance along the L75894-0 at a point where the maximum speed limit applies. The proposed development would therefore endanger public safety by reason of a traffic hazard and be contrary to the proper planning and sustainable development of the area.

R3: The Planning Authority is not satisfied on the basis of the information submitted in relation to this application that the ground would be suitable for the disposal of effluent and that adequate proposals are in place for the treatment of waste water arising from the development. The proposed development would therefore be prejudicial to public health.

R4: The Planning Authority is not satisfied on the basis on the information submitted that the proposals to discharge water collected around the stable area to the adjoining watercourse would not have a deleterious impact on the water quality in the vicinity of the site. Furthermore, the proposal to abstract/divert water from the watercourse to facilitate the construction of two ponds on site is considered to be contrary to the sustainable provision of water supply and could have a significant negative impact on the status of the local watercourse. It would therefore be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- It has not been substantiated that the applicant has resided at this location for any specified period such that intrinsic links could be established (intermittent stays do not constitute permanent residence).
- Lack of detail in relation to sight distances from proposed entrance along the northern boundary.
- The site overlies a locally important aquifer with vulnerability classed as high.

3.2.2. Other Technical Reports

Environment Department Report:

- Concerns expressed about suitability of the site to treat domestic effluent on site.
- At time of inspection site was saturated and water was noted in the trial hole 900mm below ground level.
- Trial hole was opened on the most elevated part of the site.
- No T test was carried out in accordance with EPA code of practice.
- A grey water recycling chamber is proposed, the effluent from which is to discharge to the proposed ponds. Where a discharge is proposed to a water course, including such ponds, authorisation would be required and the Environment Department would be reluctant to grant such an authorisation due to the water quality status of the adjoining river.
- Adjoining water course is of poor water quality status.
- Concern in relation to impact of ponds on the water course.
- The stables are located very close to the water course and the applicant proposes to discharge water from around the stable to the water course. This is not considered appropriate.
- The applicant proposes to construct a dung stead with 180l effluent collection tank. Clarification is required in relation to the structure, whether the dung stead is to be covered, and details of the calculation of sizing of the effluent tank. A nutrient management plan shall also be submitted for all organic fertilisers arising as a result of the proposed development.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

14/439 – Permission GRANTED to Helen Breen for redevelopment & conversion of existing single storey traditional farm building to residential use. This permission has not been implemented.

5.0 Policy Context

5.1. Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

- The subject site is located within an area designated as being 'Rural Areas under Strong Urban Influence' within these Guidelines.
- Section 3.3.3 deals with 'Siting and Design'.

5.2. Roscommon County Development Plan 2014-2020

5.2.1. The site is within a Rural Area Under Urban Influence and within an area designated as Category B (table 5.3).

5.2.2. Rural Policy Category B (Areas Under Urban Influence) constitutes the south Roscommon countryside ... under urban influence from the settlements of Roscommon Town, Athlone and Ballinasloe.... These areas are categorised by strong pressure for urban generated housing development as well as locally generated housing development.

5.2.3. In this context it is considered that these areas be reserved for individual housing development which meets the rural generated housing need criteria set out in the 'Definition of Urban & Rural Generated Housing Need', (see Table 5.3).

5.2.4. Table 5.3, Rural-Generated Housing Need: This is defined as demand for housing in rural areas generated by:

a. People who have lived in a rural area of County Roscommon for a large part of their lives or who have rural roots in terms of their parents being of rural origin...

or

b. People working full-time in a rural-based activity, who can show a genuine need to live close to their workplace and have been engaged in this employment for over five years...

or

c. People employed locally whose work provides a service to the local community or people whose work is intrinsically linked to rural areas such as teachers in rural schools.

or

d. People with a significant link to the Roscommon rural community in which they wish to reside, by reason of having lived in this community for a minimum period of five years or by the existence in this community of long established ties with immediate family members.

5.3. Table 5.4 sets out policies and suitability criteria for rural area types. In relation to Category B, it is stated

- To accommodate substantiated rural-generated housing need subject to good practice. New development should be clustered with existing family dwelling or farm buildings, except where inappropriate due to traffic safety, environmental considerations etc.
- To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community subject to compliance with normal planning criteria...

5.3.1. Chapter 9: Development Management Guidelines and Standards.

5.4. **Natural Heritage Designations**

There are a number of Natura 2000 sites in the location of the appeal site, the closest being 2.5km to the southeast of the appeal site, River Shannon Callows SAC (000216) and Middle Shannon Callows SPA (004096). Approx. 8.8km to the

southwest of the appeal site is River Suck Callows SPA (004097). Also at this location is the Suck River Callow NHA. The Carrickynaghtan Bog NHA (001623) is approx. 7km northeast of the appeal site and the Castlesampson Esker SAC (001635) is approx. 7km north of the appeal site.

5.5. Grounds of Appeal

The applicant's grounds of appeal is summarised hereunder:

- The applicant has returned to Clonbeggaun and currently resides with her extended family, Tony Murray, first cousin, whose house is identified on a submitted map, located east of the appeal site.
- A map is submitted identifying the location of the homes of family members in the area.
- The applicant complies with rural generated housing need (b) in table 5.3
- The applicant's grandmother was born in Clonbeggaun and her mother was raised in Clonbeggaun. The applicant has long standing family ties in the area and spent a substantial portion of her childhood there. The applicant currently resides with her first cousin, Tony Murray, in a house where her mother was born.
- A letter from Tony Murray is submitted with the appeal as documentary evidence that the applicant lives at that address.
- The supplementary application form indicates the applicant has a house in Dublin but it does not state how long she has resided there for. The planning authority made an assumption that she has spent the vast majority of her life in Dublin. How long she has lived in Dublin is irrelevant to housing need. Table 5.3 (a) requires a person to show rural roots in terms of parents being of rural origin. This has been demonstrated.
- Table 5.3 (b) does not require a person to demonstrate their business is sufficient to support a substantial part time employment as commented upon within the planner's report, therefore there is no basis to use it in assessing compliance. There is no basis for requiring company accounts or demonstrating the applicant's income for this agricultural enterprise.

- The applicant purchased her first ponies in 2012 and the business was formally set up in 2014. It is critical that the applicant reside on the land close to her ponies.
- The applicant does not claim compliance with rural housing need with regard to points (c) and (d) of table 5.3.
- The applicant has an extant permission to build on the site, as per PD/14/439.
- The sightline in the eastern direction was inadvertently omitted from the drawing. A revised sightline drawing has been submitted. The required sightline of 90m is available in both directions without requiring any works to the adjoining field boundary which is in separate ownership. This addresses the second reason for refusal.
- In addressing refusal reason 2, a new drawing has been submitted indicating the previously approved raised soil polishing filter. The previously approved location for effluent disposal is the same as currently proposed. There is no justification for the Council to now hold that the previously approved location is unacceptable. The Board is invited to reject this refusal.
- To address refusal reason 3, the applicant submits a revised surface water drainage layout at the proposed stables and the proposed ponds are no longer proposed, as per the revised layout.

5.6. Planning Authority Response

None.

5.7. Observations

Two submissions were received from Edel Murray of Camcloon (relative of the applicant, living east of the site) and Mary Butler (resident living opposite the proposed stables). Both support the applicant proposal to live in the area. Mary Butler highlights the proposed vehicular access is safer than that proposed opposite her dwelling, which is located on a high speed and dangerous road with high traffic volumes.

5.8. Further Responses

None.

6.0 Assessment

- 6.1. The subject site is a rural site, in use as an agricultural field, with two ponies present on the site. A stone agricultural building is located on site. The applicant proposes to construct a dwelling and renovate/extend an existing building for use as stables.
- 6.2. The primary issues for assessment include;
- Rural Housing Policy
 - Wastewater Treatment System
 - Site Access
 - Appropriate Assessment
- 6.3. The applicant in their appeal submits that they comply with rural housing need as defined in table 5.3 (a) and (b) of the development plan. The applicant states she has longstanding family ties in the area and that she requires a house on the site to live close to her ponies to care for them, as per the requirements of any farmer.
- 6.4. Table 5.4 sets out policies and suitability criteria for rural area types. In relation to Category B, it is policy 'to accommodate substantiated rural-generated housing need subject to good practice'. A footnote accompanies the word substantiated, which states: 'applicants are required to provide documented evidence in support of claims for Rural-Generated Local Housing Need'.
- 6.5. With regard to table 5.3(a), the applicant has demonstrated a link to the area through close family ties, her mother being from the area with a number of cousins living in the area, however she has not demonstrated that she has lived for a substantial period of her life at this location. A cover letter from the applicant with the application stated she spent summers here from age 7 to 17. A letter from a cousin indicates she lived in her mother's family home alongside her grandmother (located east of the site) for three years when young and returned here for all summer, Christmas, and easter holidays and weekends and was an employee in her cousins farm. It is stated in another letter that she reared her family in Dublin and now that the family are

grown, she wishes to return full time to Camcloon. It is clear from the information submitted that the applicant, who has a house in Dublin, has never lived full time in the area prior to 2014 and while I accept that she has rural roots in the area, I consider the entirety of point (a) in table 5.3 of the development plan which points to demonstrating that a person has lived a large and continuous part of their lives in the area. The applicant, who has a house in Dublin, has not lived a large and continuous part of her life in Camcloon and I am therefore of the view that she does not comply with the rural generated local housing need policy of the development plan.

- 6.6. It is argued that the Planning Authority erred in requiring the applicant to demonstrate her Connemara pony business is sufficient to support a substantial part time employment. It is argued that this is not a requirement of the policy. It is also stated that it is intended to expand this business. Taking account of the policy set out in table 5.4, which requires applicants to substantiate rural-generated housing need claims, I consider it reasonable that the applicant demonstrate proof of their business and its viability. I am not satisfied that the applicant has submitted sufficient evidence to substantiate their claim that their housing need complies with part (b) of the definition of rural generated housing need as set out in table 5.3, whereby a need arises to live close to a person's workplace, which involves rural based activities. I do not consider the scale of the business on a 1.47ha farm (plus 2.5ha leased) to be such as to warrant the construction of a new rural dwelling on the site and the applicant in my view does not comply with the definition of rural-generated housing need as set out under tabled 5.3(b).
- 6.7. While I note the applicant has an extant permission on the site, this permission was for the renovation and extension of an existing farm building, which had regard to development plan policy, whereby proposals to reuse/replace existing structures and dwellings will be considered regardless of rural or urban-generated housing need. I furthermore note the applicant's grounds of appeals states the environment and transport departments of the council did not support that application. I have reviewed those reports and concerns were raised in relation to potential pollution of the adjoining stream, issues around drainage on the site, and significant road traffic hazard on the adjoining road, L-2039-0. While the applicant has a permission on the site to extend and renovate an existing building for use as a dwelling, this is not

relevant in terms of the current assessment for a new detached dwelling on the site under a separate planning policy.

Wastewater Treatment System

- 6.8. The applicant proposes a proprietary wastewater treatment system and raised polishing filter. The accompanying site suitability assessment indicates the site is over a locally important aquifer, with vulnerability classified as high.
- 6.9. The depth to groundwater in the trial hole was 2m and to bedrock was 6m. The soil type comprises loose grey gravelly clay with pebbles and cobbles, with some mottling below 1.5m. It is noted on the site characterisation form that the site is located on the edge of a tract of peat. The northern section of the site consists of alluvial till, derived from limestone. The northern end of the site only near the road boundary is suitable for the dispersal of treated effluent to groundwater. The southern section of the site consists of a thin layer of peat overlying marl.
- 6.10. The EPA Code of Practice (CoP) indicates that the site falls within the R2(1) response category where an on-site system is acceptable subject to normal good practice.
- 6.11. A T-test was not undertaken. It is stated on the site characterisation form that the mottling at 1.5m suggests seasonal water table variation. It is stated that the best design solution is to make the discharge part to the groundwater as long as possible. It is stated that a T test evaluation is not required for the proposed design solution.
- 6.12. The site is slightly higher closer to the road (40m OD) and falls away toward the stream which traverses the site (east to west) further south from the road (37.9m OD). The stream also runs along the western boundary of the site. The stream runs south to the Middle Shannon Callows SPA. I noted upon site inspection the ground was well trampled by two ponies, indicating problems with drainage/high water table, which is also indicated by the presence of mottling as noted on the site characterisation form. I could not gain full access to the site due to the presence of the ponies.
- 6.13. A P test was undertaken, with the value stated to be 8.58. P test values of between 3 and 75 indicate the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. The site characterisation form submitted by the applicant recommends a raised polishing filter.

- 6.14. The proposal complies with separation distances to key features and scale of percolation area required.
- 6.15. In response to the reason for refusal 3, relating to the suitability of the site for disposal of effluent, the applicant argues that a puraflo system was permitted in the extant permission at the same location and there is no justification for the Council to now indicate the approved location is unacceptable.
- 6.16. I have reviewed all the information presented. Each application must be assessed on its own merits, notwithstanding that an extant permission exists. I refer to the EPA CoP, which states a T-test should be conducted at all sites where depth to bedrock or water table permits because if a T-test is in excess of 90 then, irrespective of the P-test result, the site is unsuitable for discharge of treated effluent to ground as it will ultimately result in ponding due to the impervious nature of the underlying subsoil (or bedrock). The applicant has failed to undertake a T test on the site and following a refusal from the Planning Authority has failed to address the highlighted deficiencies as set out in the planner's report on this issue. The applicant has not complied with the EPA CoP and in this regard I am not satisfied on the basis of the information presented before me, in addition to consideration of the soil type, that the proposed development would not be prejudicial to public health.
- 6.17. The applicant has submitted a revised surface water layout, showing the proposed ponds omitted from the scheme. Stormwater from the dwelling, via a grey water recycling chamber, is now to discharge south to the existing watercourse instead of to the ponds. Stormwater from the stables roofs is to discharge to the watercourse. Stormwater from the ground around the stables is to discharge to an attenuation tank for extract and off-site disposal. A dung stead is indicated linked to a 180l underground proprietary seeping holding tank for specialist off site extraction and disposal. Calculations are given on the plan which determine the size of the dungstead based on 5 horses and the size of the effluent holding tank.
- 6.18. The report from the Environment Department of the planning authority on the original surface water layout indicated that surface water discharges to a watercourse would require authorisation under the Local Government (Water Pollution Act) and the Environment Department would be reluctant to grant such an authorisation due to the poor water quality status of the receiving water course.

6.19. The river which runs along the western boundary of this site and traverses the site just 7m (at its closest point) west of the proposed stable, has at present a poor quality status. This watercourse leads to the River Shannon Callows SAC and SPA, 2.5km southeast of the proposed site. I am not satisfied from the information before me that adequate protection of the water quality status of the river has been put in place by the applicant and no regard has been had to the Natura 2000 sites in proximity to the site.

Site Access

6.20. The applicant proposes a new site entrance to the proposed dwelling from the northern boundary of the site. The applicant has submitted a revised sightline drawing to address the reason for refusal from the planning authority. It is stated the sightline was inadvertently left off the drawing. I note the low volume of traffic on this road and consider the access would not give rise to a traffic hazard.

Appropriate Assessment

6.21. The Middle Shannon Callows SPA and River Shannon Callows SAC are located approx. 2.5km to the southeast of the appeal site.

6.22. The conservation objective of the Middle Shannon Callows SPA is 'to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA'. The Middle Shannon Callows is of special conservation interest for the following species: Whooper Swan, Wigeon, Corncrake, Golden Plover, Lapwing, Black-tailed Godwit and Black-Headed Gull. It is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

6.23. The conservation objective of the River Shannon Callows SAC is 'to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected'. The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes): [6410] Molinia Meadows; [6510] Lowland Hay Meadows; [8240] Limestone Pavement*; [91E0] Alluvial Forests*; and [1355] Otter (*Lutra lutra*).

- 6.24. Approx. 8.8km to the southwest of the appeal site is European Site No. 004097, River Suck Callows SPA. Also at this location is the Suck River Callow NHA. The conservation objective associated with the River Suck Callows SPA is 'to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA'. It is also an objective 'To maintain or restore the favourable conservation condition of the wetland habitat at River Suck Callows SPA as a resource for the regularly-occurring migratory waterbirds that utilise it'. The site is of special conservation interest for the following species: Whooper Swan, Greenland White-fronted Goose, Wigeon, Golden Plover and Lapwing. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.
- 6.25. The Carrickynaghtan Bog NHA (001623) is approx. 7km northeast of the appeal site and the Castlesampson Esker SAC (European Site No. 001635) is approx. 7km north of the appeal site. The conservation objective of this Esker is 'to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected': 3180 turloughs*; 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (* important orchid sites)*.
- 6.26. The water courses on the site appear to drain toward the Middle Shannon Callows SPA and River Shannon Callows SAC and the groundwater would also appear to be linked to the SAC/SPA. Given the high vulnerability of the site and soil type associated with the site, the high water table, adjoining a river which is of poor status, and notwithstanding the proposed use of a proprietary wastewater treatment system, I have concerns in relation to the potential likely and significant impact on the SPA/SAC.
- 6.27. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Middle Shannon Callows SPA and River Shannon Callows SAC, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.'

7.0 Recommendation

7.1. It is recommended that permission be refused for the reasons set out hereunder.

8.0 Reasons and Considerations

1. Having regard to the location of the site within an "Area Under Strong Urban Influence" as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Roscommon County Development Plan 2014-2020, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the soil conditions and high water table, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.
3. On the basis of submissions made in connection with the planning application and the appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Middle Shannon Callows SPA and River Shannon Callows SAC, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

Una O'Neill
Senior Planning Inspector

19th February 2018