



An
Bord
Pleanála

Inspector's Report ABP-300527-17

Development	Construction of a house, wastewater treatment system and all associated works.
Location	Ballycloghan, Carrickboy, Co. Longford.
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	17/260
Applicant(s)	James Smyth.
Type of Application	Permission.
Planning Authority Decision	
Type of Appeal	First Party
Appellant(s)	James Smyth.
Observer(s)	None.
Date of Site Inspection	14 th March 2018.
Inspector	Patricia Calleary

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
4.0 Planning History.....	5
5.0 Policy Context.....	6
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations	9
7.0 Assessment	9
7.1. Introduction	9
7.2. Rural Housing Policy	9
7.3. Effluent treatment (including Refusal Reason No.1)	11
7.4. Ribbon development (including Refusal Reason No.2).....	14
7.5. Appropriate Assessment	15
8.0 Recommendation.....	15
9.0 Reasons and Considerations.....	15

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.22 ha, is located along the east of the R398 regional road on the outskirts of Ballycloghan village, in Carrickboy townland, c.8km south of Edgeworthstown in County Longford. It is located within the posted speed limit of 60 km/hr associated with Ballycloghan village and the area is served by a footpath and public lighting, both of which are located on the west side of the road fronting the site. The site is flat and is marked by a timber post and rail fence along the north and east boundaries. There is a relatively new house, which does not appear to be occupied, on a site directly adjoining the appeal site to the south and another house located c. 30m to north. The front (west) roadside boundary is marked with a concrete block wall, c.1.2m in height and there is a grass verge between this wall and the road edge.
- 1.2. The immediate area is characterised by several single houses on individual plots extending along the roadway on both sides. With the exception of the built-up area within the village, the wider area is predominately agricultural in nature.

2.0 Proposed Development

- 2.1. The proposed development would comprise a dormer-style dwelling with an overall height of 7.47m, a width of 8.75m and a stated gross floor area (GFA) of 201sq.m. The house design includes a proposal for two dormer windows projecting from the roof plane. The walls would be finished in nap plaster. The dwelling would also include a centre projecting two storey element which is proposed to be finished in stonework and a sunroom would be attached to the south side of the house. The public notice includes reference to the development also comprising a detached garage, however, the garage is not shown on any of the drawings or details submitted with the application or appeal.
- 2.2. The original proposal for treatment of domestic effluent included a secondary effluent treatment system comprising a mechanical aeration unit which would provide primary and secondary treatment of effluent following which tertiary treatment would be provided by use of a polishing filter. At appeal stage, this element of the proposal

was amended and a revised site layout plan was received which included proposals for a sand polishing filter and horizontal reed bed system. Reference was made in the written appeal that the proposal would include a sand polishing filter and a willow bed.

2.3. In addition to the standard details, the planning application was accompanied by a cover letter, aerial photographs, a supplementary form (Roads Form 1: Traffic projections) and an EPA Site characterisation form. A Local needs form was provided at appeal stage.

2.4. It is stated that the lands are in family ownership and that the appellant proposes the house for his permanent use.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a notification to refuse permission for two reasons, which can be summarised as follows:

- **R1:** Risk to water quality and public health arising from the on-site effluent treatment, when taken in conjunction with previously permitted systems adjacent to the site.
- **R2:** Proposed development would exacerbate ribbon development.

3.2. Planning Authority Reports

3.2.1. Planning Report

- Area characterised by ribbon development on both sides of the carriageway.
- Site is not located within the development envelope of the village and would be at odds with stated Policies CS 13 and HOU RUR 7.
- Results of the site characterisation report and significant ponding of water identified during site visits indicates poor drainage.
- When considering the multiplicity of on-site effluent treatment units on site, it is considered to pose a significant risk and would be contrary to HOU RUR 5 under Section 3.2.2.1 of the Longford County Development Plan.

- Recommends that permission is refused.

3.2.2. Other Technical Reports

- Roads: No objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water: No objection subject to standard conditions.

3.4. Third Party Observations

3.4.1. One third party submission was received from Ballycloghan Residents Association.

The following relevant planning matters were raised:

- Proposal would set a precedent for building in gardens of other dwellings and proposed development is visually obtrusive.
- Would result in increased traffic and endanger public safety.
- Would result in ribbon development, contrary to planning policy.
- Would result in intensification of septic tanks/treatment systems which would be prejudicial to public health.
- Surface water ponding and drainage issues are evident.
- Original owner was a speculative buyer and has not resided in this dwelling. Owner and applicant already have established residential property within the county and the information provided is inaccurate.

4.0 Planning History

4.1. Appeal Site

- None

4.2. In the vicinity

4.2.1. The following planning history relates to a site immediately adjacent and to the south of the appeal site. The site and house are marked on drawings as being in the appellant's brother's ownership.

- **Planning Ref. No. 01/129** – Outline Planning permission was granted (June 2001) for a dwellinghouse, ‘Puraflo’ treatment plant, percolation area and ancillary works.
- **Planning Ref. No. 03/118** – Approval permission was granted to build a dormer type dwelling house, septic tank and percolation area and ancillary site works (File No. PI 01/129).

5.0 Policy Context

5.1. Longford County Development Plan 2015-2021

5.1.1. The provisions of the Longford County Development Plan 2015-2021 apply. The site is located c. 80m outside and south of the development envelope of Ballycloghan which is categorised as a Tier 6 ‘Rural Service Settlement’. As set out in the Development plan, these areas are intended to cater for local need, in a similar manner to current one-off housing policy and in accordance with the provisions of the Sustainable Rural Housing Guidelines.

5.1.2. The following provisions are relevant to the appeal.

- Section 3.2.2.1 – Rural Areas: General Policy and Objectives.
- HOU RUR 1 - Assessment of residential development in rural areas shall be guided by the suitability of the area in terms of its sensitivity, its ability to accommodate development in a sustainable manner and compliance with the relevant technical criteria.
- Rural Housing Need Policy CS 12 sets out ‘Categories of Applicant’ which would be considered for the development of housing in rural areas with a view towards sustaining rural communities.
- CS 13 - In accordance with the policies outlined in the Sustainable Rural Housing Guidelines, the Council shall strictly apply policy CS 12 in the vicinity of Designated Settlements in order to prevent over-proliferation of urban-generated one-off housing in the rural area.
- HOU RUR 3 - Outside designated settlements and development envelopes, there shall be a presumption against extensive urban generated commuter

development, ribbon development, development by persons who do not intend to use the dwelling as their primary residence and unsustainable, speculator driven residential units. In this respect, applicants for permission for residential development in non-designated areas shall be required to submit a statement indicating the sustainability of the proposal, which shall form part of the assessment of the application for planning permission and in which shall be outlined:

a) The reason for the location of the proposed dwelling in a particular locality.

b) The connection or close relationship between the applicant and/or proposed resident and the locality in which the proposed dwelling is to be situated and the criteria outlined in CS 12.

c) The place of employment of the applicant and/ or proposed resident where relevant.

d) A demonstration of the ability of the applicant and/or proposed resident to provide, at their own expense, the services required to sustain the proposed development without detrimental impact on road safety, water quality, public health, views and prospects, landscape, environmental integrity and amenity.

- HOU RUR 5 - Ribbon development of one-off housing extending out along routes from settlements shall be actively discouraged.
- HOU RUR 7 - It is the policy of the Council to have regard to the Sustainable Rural Guidelines for Planning Authorities, April 2005.
- HOU RUR 8 - Effluent Disposal – requires that where existing treatment systems are adjacent, the minimum site size (of 0.2ha) shall be increased and/or the applicant may be required to install an additional treatment system. Point c) requires ‘full site-specific details of the proposed system certified by a suitably qualified and indemnified individual and shall include Irish Agrément Board certification and manufacturer’s certification of site suitability’.

5.1.3. I attach copies of relevant extracts and policies from the Development Plan.

5.2. **Natural Heritage Designations**

- 5.2.1. The closest European sites to the appeal site are Mount Jessop Bog Special Area of Conservation (SAC) (Site Code 002202), located 7.5m to the north west and Glen Lough Special Protection Area (SPA) (site code 004045) and Glen Lough pNHA (Site code 001687) located 8km to the east of the site.
- 5.2.2. Other sites of national heritage interest include Mount Jessop Bog National Heritage Area (NHA) (site code 00145000), located 7.5km to the north west and Glen proposed National Heritage Area (pNHA) (Site code 001687) located 8km to the east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal was received from Cunningham Design & Planning, representing the appellant. The appeal is accompanied by a revised site layout plan and a drawing with a plan which shows a proposal for a treatment system, 25 sq.m of sand polishing system followed by a 30 sq.m horizontal reed bed system. It also includes a standard section drawing through the sand polishing filter. The appeal is also accompanied by a completed local need form and photographs.
- 6.1.2. The principal relevant planning matters raised in the grounds of appeal are summarised as follows:
- The proposal was intended to be serviced by a proprietary wastewater treatment system with a raised percolation area; however, it is now proposed that the proposed development would instead be serviced by a proprietary wastewater treatment system, followed by a sand polishing filter and a willow bed.
 - The proposal including secondary treatment (via the proprietary wastewater treatment system) and tertiary treatment (using a sand polishing filter and horizontal reed bed system) will ensure that the effluent generated from the proposed development will be treated to the highest quality and will not pose a threat to ground or surface waters.

- Appellant satisfies HOU RUR 3 of Section 3.2.1 of the Longford County Development plan 2015-2021.
- Proposal is for appellant's permanent place of residence.
- Site is located within Ballycloghan village and within the 60km/hr speed limit signs.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

7.1. Introduction

7.1.1. The main planning-related issues which arise, and which I consider in the remainder of my assessment are:

- Rural Housing Policy
- Effluent treatment (including Refusal Reason No.1)
- Ribbon development (including Refusal Reason No.2)
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The proposal is for the development of a dwellinghouse at a rural location, c.80m outside of the development envelope of Ballycloghan, which is listed as a Tier 6 'Rural Service Settlement' in the Longford County Development Plan 2015-2021. The site is located within the 60km/hr speed limit and there is a footpath and public lighting located on the opposite side of the road in front of the site. Nonetheless, the fact remains that the site lies outside of the development envelope as identified in the development plan and even if it were considered to be within the village as per

the appellant's assertion, the development plan provisions state that these Tier 6 rural service settlements are intended to cater for local need, in a similar manner to current one-off housing policy (and in accordance with the provisions of the Sustainable Rural Housing Guidelines).

- 7.2.2. Having regard to these provisions as set out in the current statutory development plan, the application is required to be assessed as a house in a rural area. I consider a key factor of this assessment is to establish whether or not a rural generated housing need has been established.
- 7.2.3. Policy HOU RUR 3 requires that outside designated settlements and development envelopes, there shall be a presumption against extensive urban generated commuter development, ribbon development, development by persons who do not intend to use the dwelling as their primary residence and unsustainable, speculator driven residential units.
- 7.2.4. Applicants for permission for residential development in non-designated areas are required to submit a statement indicating the sustainability of the proposal, which shall form part of the assessment of the application for planning permission. The policy outlines the information to be provided in such sustainability statements, including the reason for the location, the connections with the locality and the criteria outlined in CS 12, applicant's place of employment and demonstration of applicant's ability to provide services required to sustain the proposal without a detrimental impact on a number of listed factors.
- 7.2.5. Rural Housing Need Policy CS 12 sets out 'Categories of Applicant' which would be considered for the development of housing in the rural area with a view towards sustaining rural communities. These include members of farm families, landowners with reasonably sized farm holdings, members of the rural community, including returning emigrants, and persons whose primary full or part time employment is locally based. In the Local Need form submitted with the appeal, the appellant has stated that his place of employment is at Airsynergy, which based on an internet search is stated to be a renewable energy innovation company in Granard in County Longford, c.25km north-east of the appeal site. The information provided on the form states that the appellant has a brother who owns a house where the appeal site is located. While the precise location is not referenced, this may refer to the house

which stands on the site to the south of the appeal site, marked as the appellant's brother's house and which appears to be unoccupied. There is no specific reference to immediate family residing in the area apart from a statement of 'other family living there'. The third-party submission received by the Planning Authority included statements that the owner of the adjoining house (applicant's brother) has not resided in the dwelling and that the appellant has established residential property in the county. The appellant states that he resided in Granard in County Longford some 20 years ago and currently owns a house in Tirlahode, Stradone in County Cavan. He also submits that the appeal site would be close to his home town (Granard) and that he employs over 20 people there.

- 7.2.6. Notwithstanding the information provided, the detail is insufficient to meet the requirements of a statement indicating the sustainability of the proposal as is required under HOU RUR 3. Specifically, the justification for the location of the proposed dwelling in a rural area separated from the appellant's place of work and connections or close relationships with the locality including the criteria outlined in CS 12 are not sufficiently demonstrated. A housing need has not been established in accordance with Policies HOU RUR 3 and CS 12 with regard to one-off houses in rural areas and HOU RUR 7, which requires the Council to have regard to the Sustainable Rural Housing Guidelines. Accordingly, it has not been demonstrated that the proposed development would contribute to sustaining the rural community in which the house outside of the adjoining settlement is proposed. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and should be refused for this reason.

7.3. Effluent treatment (including Refusal Reason No.1)

- 7.3.1. Refusal Reason No.1 of the Planning Authority's decision relates to effluent treatment proposals, setting out that the Authority is not satisfied that the proposed effluent treatment system in conjunction with previously permitted treatment systems adjoining the site would not result in pollution and would consequently pose a significant threat to public health and to the quality of ground and surface waters. Accordingly, the Planning Authority consider the proposal would lie contrary to Policy RUR 7 of the Longford County Development Plan.

- 7.3.2. The site characterisation form which accompanied the application describes the soils encountered as silt/clay topsoils (0-0.3m) overlain by silt/clay (0.3m-0.6m) which in turn is overlain by clay with cobbles and boulders (0.6 – 2.1m). Water level is recorded at having been encountered 1.9m below ground level in the excavated trial hole. The results of a percolation test are stated to have revealed a 'T' value of 59 min/25mm and a 'P' value of 37.67 min/25mm. On the day of my site inspection, ground conditions were very wet underfoot following a prolonged period of rainfall. The ground had evidently been disturbed and levelled out at some stage, most likely in connection with the construction of the adjoining house to the south. The trial hole was closed over so I did not have the opportunity to observe the depth of the water table. However, based on the saturated soils at ground level and the rush vegetation and waterlogging observed during my site inspection, there was clear evidence of a high-water table and poor draining soils on the site.
- 7.3.3. The appellant introduced a change to the effluent treatment proposals at appeal stage. Specifically, it is stated that instead of the development being serviced by a proprietary wastewater treatment system and a raised percolation area as was proposed at the outset, it is proposed to treat the effluent by means of a proprietary wastewater treatment system followed by a sand polishing filter and a willow bed. The written appeal goes on to refer to a horizontal reed bed system (rather than a willow system).
- 7.3.4. The appeal was accompanied by a revised site layout plan and a drawing / detail of a sand polishing filter. The site layout plan indicates a 25 sq.m sand polishing filter followed by a 30 sq.m horizontal reed bed system which it is stated would be in accordance with Table 8.3 of the EPA Code of Practice: Wastewater treatment and disposal systems serving single houses (p.e. ≤ 10), 2009, hereinafter referred to as the 'Code of Practice'. No site-specific details, for example ground and invert levels or information on the design of the reed bed (or willow bed) have been presented. This does not meet the requirements set out under Policy HOU RUR 8 (Effluent Disposal) within which Point c) which requires 'full site-specific details of the proposed system certified by a suitably qualified and indemnified individual and shall include Irish Agrément Board certification and manufacturer's certification of site suitability'.

- 7.3.5. The Planning Authority raised concern regarding risks to water quality, which they contend would arise from the effluent treatment system when taken in conjunction with permitted treatment systems on adjoining sites. The Code of Practice sets out minimum separation distances between wastewater treatment systems and certain features, including separation distance from other wastewater treatment systems. The Code also allows for increase of distances where this is deemed appropriate. It is also open to the Planning Authority and by way of extension, the Board, to seek additional information to assess the potential impact on groundwater quality as a result of a development. In relation to the current proposal, a review of the drawings shows that the proposal would meet the standard separation distances set out in Table 6.1 of the Code of Practice. I note that the wider area comprises several houses which are serviced by single wastewater treatment systems which arguably could collectively lead to increased nitrate levels in the receiving groundwater, giving rise to potential for significant cumulative impacts on groundwater quality. Should the Board be minded to grant permission, I recommend that the appellant should be required to submit further information, including an assessment of the resultant impact of treated effluent on groundwater including dilution calculations.
- 7.3.6. In addition to the above, concerns remain because of a lack of clarity around the proposed effluent system in its entirety. Reed bed systems and willow systems have both been referenced in the appeal but it is unclear which of these two systems is proposed or if a hybrid of both systems may be proposed. No site-specific design details have been submitted, for example, longitudinal and cross sections and technical design details of the reed bed (or willow) proposed including species of plants, or the competence and past experience of the designer who would design the system and the contractor who would install it. Section 8.6.1 of the Code of Practice requires that a polishing filter should follow a reed bed system when the disposal route for the secondary treated effluent is to groundwater. The design submitted at appeal stage includes proposals for the installation of a polishing filter prior to the reed bed system, rather than following the reed bed system. This design sequence proposed would likely compromise the nutrients required to feed the reedbed system plants and would be a variance with the guidance set out under the Code of Practice. The Code of Practice also requires that the reed bed system is sealed by either a synthetic or a geotextile clay liner or a natural clay liner (with a permeability 'k' factor

of 1.0×10^{-8} m/s). No such proposal was submitted. As noted in the Code of Practice, the design of a reed bed system is site specific and the design and installation should be undertaken by a competent person. Insufficient information has been submitted in this regard.

- 7.3.7. In the absence of this key technical information for the design of the overall effluent disposal system proposed, including the proposal for a reed bed system whose design is required to be site specific, the development would not comply with the guidance contained in the EPA Code of Practice or with the requirements set out in Policy HOU RUR 8 of the Development Plan, which I have outlined above.
- 7.3.8. Overall, I am not satisfied that when taken in conjunction with the high concentration of waste water treatment units in the area, the development would not contribute to increased nitrate levels in the groundwater. Furthermore, it has not been demonstrated that the effluent that would be generated from the proposed house can be adequately treated and safely disposed of on-site. This is particularly so when taken in conjunction with the saturated ground conditions which are clearly evident on site.
- 7.3.9. Having regard to the above, I am not satisfied that the proposed development would not give rise to potential for significant cumulative impacts on groundwater quality or be prejudicial to public health. Accordingly, I recommend that planning permission is refused.

7.4. Ribbon development (including Refusal Reason No.2)

- 7.4.1. Reason No. 2 of the Planning Authority's decision states that the development would exacerbate the pattern of ribbon development in the area. The appellant asserts that the development would be located within the village settlement and that the dwellinghouse would be for his own use.
- 7.4.2. The area in the immediate vicinity of the site is characterised by ribbon development. If permitted, the proposed development would result in five dwellinghouses extending along the R393 outside of the development envelope of Ballycloghan. The development would therefore be contrary to Policy HOU RUR 5 in particular, which actively discourages ribbon development of one-off housing extending along routes from settlements. The development would also lie contrary to policy HOU RUR 3

which includes a stated presumption against ribbon development outside of designated settlements. The proposed development would, therefore, be contrary to the stated planning policy and as follows would lie contrary to the proper planning and sustainable development of the area. For these reasons, I also recommend that permission is refused.

7.5. **Appropriate Assessment**

- 7.5.1. Notwithstanding the issues raised above in relation to the concentration of wastewater treatment systems in the vicinity of the appeal site, and having regard to the scale of the development, the separation distance and the lack of a direct hydraulic connection to the above Natura 2000 sites I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

8.0 **Recommendation**

- 8.1. Further to the above planning assessment of matters pertaining to this appeal, including consideration of written appeal, and including my site inspection, I recommend that permission is **refused** for the proposed development for the Reasons and Considerations set out directly below.

9.0 **Reasons and Considerations**

1. The documentation received with the planning application and appeal have not demonstrated that the applicant has an established rural housing need by reference to Policies HOU RUR 3 and CS 12 with regard to one-off houses in rural areas and to related Policy HOU RUR 7 which requires the Planning Authority to have regard to the Sustainable Rural Housing Guidelines. Accordingly, it has not been demonstrated that the proposed development of a new dwelling in rural area outside of any settlement or development envelope, would fulfil a specific rural housing need or contribute to sustaining the rural

community in which it is proposed. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The ground conditions evident on site indicate poor draining saturated soils and a high water table which would not generally be suitable for disposal of treated effluent on site, notwithstanding proposals for secondary and tertiary treatment. The Board is not satisfied that when taken in conjunction with the high concentration of waste water treatment units in the area, the development would not contribute to unacceptable increase of nitrate levels in the receiving groundwater. Furthermore, it has not been demonstrated that the effluent that would be generated from the proposed house can be adequately treated and safely disposed of on-site. Specifically, there is a lack of clarity presented in relation to the proposed effluent treatment system. Reed bed systems and willow systems have both been referenced as a method for tertiary treatment in the appeal but it is unclear which of these types is proposed or if a hybrid of both systems may be proposed. No site-specific details have been submitted, for example, longitudinal and cross sections and technical design details of the reed bed (or willow) proposed including species of plants, or the competence and past experience of the designer who would design the system and the contractor who would install this specific element of the proposal for tertiary treatment of effluent. In the absence of this key technical information, the development would not comply with HOU RUR 8 which includes a requirement for full site-specific details of the proposed system and manufacturers certification. Accordingly, it has not been demonstrated that the effluent which would be generated as a result of the development can be adequately treated and safely disposed of on-site without risk to groundwater quality and public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The development would contribute to unsustainable patterns of ribbon development of one-off housing extending out along a route from a settlement which under Policy HOU RUR 5 of the Longford County Development Plan 2015-2021 is actively discouraged. Policy HOU RUR 3 also includes a stated presumption against ribbon development outside of designated settlements. The proposed development would be in conflict with these policies because, when taken in conjunction with existing development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in a rural area. The proposed development would, therefore, be contrary to the stated planning policy for the area and would lie contrary to the proper planning and sustainable development of the area.

Patricia Calleary
Senior Planning Inspector

26th March 2018