



An
Bord
Pleanála

Inspector's Report ABP-301833-18

Development	Construction of two-storey five bedroom house with attached garage, effluent treatment system, new connection to group water scheme, new vehicular entrance and all ancillary site development works
Location	Lemanaghan, Ballycumber, Tullamore, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	17467
Applicant(s)	Aoife and Trevor Phelan.
Type of Application	Permission.
Planning Authority Decision	Permission Granted
Type of Appeal	Third Party
Appellant(s)	Freda Clarke
Date of Site Inspection	9 th of October 2018
Inspector	Caryn Coogan

1.0 Proposed Site

The site is located in the townland of Lemanaghan, adjacent to a small rural settlement of the same name. The settlement is vernacular in appearance on approach from the south from a neighbouring village, Pollagh, which is 2km from the site. There are interesting ruins at the settlement in terms of an old church, and old castle, an old graveyard. It is an early Christian Site where the Machan founded this monastic site, which includes a Holy tree and Holy well

The site which is 0.5437Ha, is almost triangular in configuration and a portion of a large field is used for grazing. It forms part of a larger landholding, and the landowner lives on the opposite side of the road to the site closer to the monastic site.

There is a bungalow to the north of the site, and a portion of land between the site and the bungalow, which resembles another future site. On the opposite side of the road there are a number of one off houses. The proposed access to the site is located inside the speed limit.

The site is an open field, which rises towards the south east. There are no strong site boundaries or mature trees around the site.

2.0 Proposed Development

- 2.1. The proposed development is a two-storey house, 236sq.m. with an attached garage, giving a total floor area of 276sq.m. It is a five-bedroom house with a ridge height of 8.4metres.
- 2.2. A wastewater treatment system is proposed to the rear of the dwelling, on the lowest part of the site to the rear.
- 2.3. The building line is in keeping with the bungalow to the north west.
- 2.4. Documentation submitted with the planning application:
 - Technical drawings
 - Local Needs Supporting Documentation.

- Later an Archaeological Report

2.5. The proposed access is at the northwest extremity of the roadside boundary inside the 50km/hour speed limit

3.0 **Planning Authority Decision**

3.1. **Decision**

Offaly Co. Co. granted the proposed development subject to 16No. standard conditions including an occupancy agreement.

3.2. **Planning Authority Reports**

The basis for the planning authority's decision to grant includes:

- The applicant does comply with SSP18 policy as they are local people from the local area needing a dwelling.
- The previous reason for refusal has been overcome as this is an alternative site and it is not accessed off the regional Road.
- The siting and design of the dwelling was acceptable

3.2.1. Other Technical Reports

Area Engineer had no objections

Environment and Water services requested further information regarding the Site Suitability, and asked for a supervised retest of the trial holes.

3.3. **Prescribed Bodies**

Archaeological trenches should be dug out and tested on site, and a report submitted to Department of Culture, Heritage and the Gaeltacht. The report dated 6th of March 2018 revealed shortcomings in the further information received. A substantial Archaeological report was submitted to the planning authority on 25th of April 2018. This report indicated the site is located in an area of high archaeological potential. The Department of Culture, Heritage and Gaeltacht considered the report and had no objection subject to archaeological conditions been attached.

3.4. **Third Party Observations**

There were 2No. third party submissions received. One from the third party appellant citing concerns over privacy, access, the design of the dwelling, and the speed limit signs.

Another third-party submission expressed concern over the entrance on a sharp bend.

Political representations supporting the applicant.

4.0 **Planning History**

15/73 Permission refused to Aoife Halligan and Trevor Phelan for a dwelling along the R436 because the applicants did not present exceptional need to live in the area. In particular Policy SSP 19 of the development plan.

16/29 Aoife Halligan and Trevor Phelan withdrew their planning application along the R436.

5.0 **Policy Context**

5.1. **National Policy**

Sustainable Rural Housing Guidelines DOEHLG 2005.

The site is located in an area under Strong Urban Influence.

The Heritage Council published a Conservation Plan for Lemanaghan, Co. Offlay, which is relevant to the current proposed development, because the dwelling/ site is within 300metres of the monastic church and ancient site.

5.2. Offaly County Development Plan 2014-2020

1.15.6 Housing in the Open Countryside

The settlement strategy recognises the tradition of rural living and the requirements of people connected with the rural area and/or with an identified need to reside in the open countryside.

The policy in relation to housing within the open countryside in Offaly is informed by the Department of the Environment, Heritage and Local Government's (DEHLGs) 'Sustainable Rural Housing Guidelines' (2005), which provides that Planning Authorities distinguish between areas under strong urban influence, stronger rural areas and structurally weaker areas. The rural housing policy is specifically aimed at restricting what the guidelines refer to as 'urban generated housing' whilst prescribing that 'rural generated housing' which will be facilitated by way of policy throughout the county. **Map 1.3** below indicates the breakdown in rural area types in County Offaly.

Map 1.3 Rural Areas in County Offaly

Offaly County Council's policy on rural housing is therefore in accordance with the broad objectives on 'sustainable rural settlement policy framework' as outlined in the National Spatial Strategy, whilst also having particular regard to the **DOEHLGs** 'Sustainable Rural Housing Guidelines'. It addresses the need to achieve an appropriate balance between the protection of the open countryside, to retain and strengthen rural population levels and to meet the housing needs of individuals with a connection and/or requirement to live in the rural area. Refer to Map 1.4 (attached) to identify areas subject to rural housing policy.

Rural housing will be assessed against the following criteria to determine if there is an issue with ribbon development: •

- Number of houses located long the particular stretch of road
- What distance of road is fronted by existing rural housing.

- Number of access points to existing houses. This does not assume that intensifying the use of an existing access mitigates against ribbon development or overcomes the issue.
- Is the site a gap or infill site or is it considered to extend an existing ribbon of houses?
- Is there a design solution proposed to integrate building and mitigate against the visual impacts of ribbon development?

Rural Housing Design

SSP-17 It is Council policy to encourage and promote quality design, appropriate scale, form, informed siting, quality materials and finishes and to incorporate where possible and practicable, the best principles and mechanisms for sustainability and energy efficiency.

In addition, it is also Council policy to ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations including the following:

The protection of features that contribute to local attractiveness including; landscape features, historic and archaeological landscapes, water bodies, ridges, skylines, topographical features, geological features and important views and prospects.

The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding.

The ability to provide safe vehicular access to the site.

The ability of a site in an unserviced area to accommodate an on-site waste water disposal system in accordance with the EPA Code of Practice for Wastewater

Treatment Systems for Single Houses (2009), Source Protection Plans within the county, and any other relevant documents /legislation as may be introduced during the Plan period.

The need to comply with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in November 2009.

Rural Housing Policy – Local Need

SSP-18 It is Council policy that within areas of the open countryside identified as a pressure area in Map 1.4: a positive presumption will be given towards a new single house for the permanent occupation of an applicant who falls within one or more of the 3 categories below and meets the necessary criteria.

Category 1: Local Rural Persons (a), (b) and (c)

The following 3 criteria arise in assessing applicants under this category:

The applicant must come within the definition of a 'Local Rural Person' and the proposed site must be situated within their 'Local Rural Area' and the applicant must have a 'Local Rural Housing Need'

a) A '**Local Rural Person**' (applicant) is a person who was born within the local rural area, or who is living or has lived in the local rural area for a minimum of 5 years at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local rural area.

b) The 'Local Rural Area' for the purpose of this policy is defined as the area generally within a **8km** radius of where the applicant was born, living or has lived. *(The rural area excludes all urban settlements contained within Tiers 1, 2, 3 and 4 of the settlement hierarchy).*

c) An applicant who satisfies a 'Local Rural Housing Need' is defined as a person who does not or has not ever owned a house in a rural area and has the need for a permanent dwelling for their own use.

Category 2: Persons Working Fulltime or Part-time in Rural Areas (a) or (b)

Such persons shall be defined as persons who by the nature of their work have a functional need to reside permanently in the rural area generally immediately adjacent to their place of work. Such circumstances will normally encompass persons involved in full-time farming, horticulture or forestry as well as similar part-time occupations where it can be demonstrated that it is the predominant occupation. Other cases will be dealt with on their own individual merits having regard to the intended spirit of the policy. In each case the applicant must not already own or have owned a house in the rural area.

Category 3: Exceptional Health Circumstances

Having regard to the Department of the Environment, Heritage and Local Government's '*Sustainable Rural Housing Guidelines*' (2005), special consideration shall be given in limited cases of exceptional health circumstances - supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person.

Table 7.11.4 Summary of Landscape Characteristics and Sensitivities

H) ARCHAEOLOGICAL AND HISTORICAL LANDSCAPES

Characteristics

- County Offaly is rich in landscapes of archaeological and historic interests as is **shown on Map 7.16**. This ranges from large ecclesiastical sites such as Clonmacnoise and Durrow Abbey to archaeological features such as the Durrow High Cross.

- Section 7.18, Built Heritage of this plan provides further policies and objectives concerning the county's archaeological and historical landscapes. These primarily include Clonmacnoise, Durrow, Killeigh, Lemanaghan and Rahan.

Sensitivities

- These landscapes are highly sensitive to new developments, which could potentially damage the historical character and the cultural and social importance of the area.
- The Council shall endeavour to ensure that planning applications for development, refurbishment and restoration works etc. within close proximity to these areas are sympathetic to the sensitive nature of the landscape.

5.3. Natural Heritage Designations

There are no designated sites in the vicinity of the subject site. The nearest site is Ferbane Bog.

Ferbane Bog SAC 000575

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appellant has taken this appeal on three grounds which can be summarised as follows:

- The proposed development would have a severe impact on the privacy and value of their property which is just opposite the proposal.
- The entrance to the development would constitute a very dangerous exit as it is on the inside of an extremely blind corner on the Pollagh Road
- The design of the proposed house is not in keeping with the other houses on that side of the road as they are bungalows.

Another family member was allowed to construct a dwelling on a very dangerous bend nearby. Reduced speed signs have been erected to 50km/hour.

6.2. Applicant Response

The issues raised on appeal were already addressed in the planning application. The following are the relevant points made in the response to the appeal by the applicants.

- The proposed development is positioned 82metres from Lemanaghan House and across a road. There will be no significant negative impact. Lemanaghan House is nestled behind trees which protect its privacy. The proposed development includes landscaping along site boundaries.
- Lemanaghan House is currently for sale with a market price of €400,000. It was bought by the third parties in 2006, with new works carried out to the property. Then it was on the market in 2008for €995,000 and reduced to €650,000 by 2010. Therefore, to state the proposed development will impact on the value of their house does not stand up to scrutiny
- The hedgerow will be removed to provide the required sightlines. The Area Engineer was satisfied with the sightline. Condition No. 6 dealt with access adequately. The access arrangements were carefully considered by the local authority
- The issue of the design of the dwelling has been dealt with by Offaly Co. Co. There are a number of two storey dwellings in the vicinity of the site, including the third party's house and the applicant's parent house.
- The applicants brother Glenn Halligan, got planning permission for a house in 2001, and it was constructed in 2002. It is misleading to say he built a house in the area in recent times. This point is irrelevant and should have no bearing on the appeal.
- The Road Traffic (Special Speed) limits Offaly Co. Co. Byelaws 2017 should have been made through the public consultation period 7th of December 2016- 27th of January 2017 and are therefore irrelevant to the planning application.

6.3. **Planning Authority Response**

The planning authority asks the Board to uphold its decision to grant planning permission for the development.

7.0 **Assessment**

7.1. The main issues in the appeal are those raised in the grounds of appeal, and compliance with development plan policies. I am satisfied that no other substantive issues arise. The issues will be dealt with under the following headings:

- Compliance with Development Plan Rural Housing Policy
- Compliance with Development Plan Design / Siting Requirements
- Residential Amenities/ Property Values
- Traffic
- Appropriate Assessment

7.2 **Compliance with Rural Housing Policy**

Offlay County Council's policy on rural housing is in accordance with the broad objectives on sustainable rural settlement policy framework as outlined in the National Spatial Strategy., and 2005 DoEHLG publication Sustainable Rural Housing Guidelines.

The proposed site is located within an area designated in the County Offlay Development Plan 2014-2020 as a '**pressure area**'. Planning applications for houses in these pressure areas are to be assessed against Policy **SSP-18**, whereby an applicant must fall with one of three specified criteria.

According to Category 1, the applicant must come within the definition of a 'Local Rural Person' **and** the proposed site must be situated within their 'Local Rural Area' **and** the applicant must have a 'Local Rural Housing Need'

Aoife Halligan was born and reared in the area, she attended the local primary school, She is now a teacher in a Moate Secondary School, where she went to

secondary school herself. There is no indication if her husband/ partner Trevor Phelan also works in an urban area. The applicants currently live one kilometre from the site in rented accommodation. This is their third planning application in the area. The first application was refused due to access onto the Regional Road, and the second application was withdrawn following advice from Offaly Co. Co. as it was also direct access onto a Regional Road. The applicant states she also works on her father's adjoining farm, both in a functional and administrative capacity. She has stated that living beside her parents is critical in order to care for them, as her father has been ill. She is involved in numerous local community groups which are cited on appeal and in the planning submission documents.

I accept that Aoife (Halligan) Phelan was born and reared in the area and she is the daughter of a landowner. She has immediate family linkages to the area, her parents, her brother and sister live in Lemanaghan. I consider she complies with Category 1 of SSP-18 of the development plan, and that is considered adequate to comply with the SSP-18 policies. I do not consider the applicant as presented a sufficient case to be considered an 'exceptional' health case, as there are other family members in the area to assist with the family and the farm. This is not an 'exceptional' case in the true meaning of the Rural Housing Guidelines.

7.3 **Compliance with Development Plan Design / Siting Requirements**

The Board should note **The Heritage Council** published a detailed Conservation Plan report for Lemanaghan, Co. Offlay which I have read and included relevant extracts in the Appendix of this report. I note the report recommends any future developments in the immediate vicinity of the monastic site and features would need to be sensitive to the site and its setting. The Report recommends to:

Ensure that the view of St Managhan's Church, from approximately 300m (984 feet) on the southern and western approaches, is not obscured by large-scale agricultural or commercial development. Small-scale, single-storey building on the existing building line will not affect sightlines. It is preferable that any boundaries in the vicinity be kept to a height which would not obstruct the view of the church.

The schoolhouse and St. Managhan's site are situated at a busy crossroads to the north of the site within 300metres from the proposed dwelling from the southern approach.

The following development plan policy is relevant to the current proposal:

SSP-17 It is Council policy to encourage and promote quality design, appropriate scale, form, informed siting, quality materials and finishes and to incorporate where possible and practicable, the best principles and mechanisms for sustainability and energy efficiency. In addition, it is also Council policy to ensure that applicants comply with all other normal siting and design considerations including the protection of features that contribute to local attractiveness including; landscape features, historic and archaeological landscapes, water bodies, ridges, skylines, topographical features, geological features and important views and prospects. Other considerations include the capacity of the area to absorb further development.

In addition section **Table 7.11.4 Summary of Landscape Characteristics and Sensitivities** of the development plan is relevant to the current proposal. It states at sites such as Lemanaghan the following should be noted:

These landscapes are highly sensitive to new developments, which could potentially damage the historical character and the cultural and social importance of the area.

- *The Council shall endeavour to ensure that planning applications for development, refurbishment and restoration works etc. within close proximity to these areas are sympathetic to the sensitive nature of the landscape*

The applicants claim in their planning application that the site layout and house design sit comfortably within the landscape. I disagree, the site is a standalone setting, detached from the cluster of houses on the opposite side of the road, and the applicant's brother's house to the north west. The subject site is a substantial site with an irregular configuration, which is not similar to existing pattern of residential curtilages in the vicinity. The site layout also creates a potential additional site area between the brother's existing house and the proposed dwelling, with no justification for creating a possible future infill site.

The proposed dwelling is a bulky two storey structure with considerable massing when viewed from the surrounding area because it has dual aspect elevations. The

siting and design, in my opinion, has been crudely executed, and the house will stand out insensitively and sharply on the landscape when viewed from the immediate and widespread area. The overall bulkiness and massing of the dwelling will appear monolithic against a soft vernacular backdrop to the north and west, and the open countryside to the south. The overall proposal in terms of site layout and house design is haphazard and incongruous to the setting. The scale, height bulk and massing are out of context with the surrounding area, and will detract from the area.

I noted vernacular type two storey dwellings when viewed from within the site on the opposite side of the road. I noted the elegant vernacular formation of the buildings at the junction of the Regional Road adjacent to the St. Managhan's Church and old school house. The proposed contemporary dwelling is incongruous to the existing built environment apart from the brother's house to the north which is a standard contemporary bungalow. Notwithstanding the proposed landscaping along the site perimeter, I consider the proposed house design and siting to be inappropriate in terms layout, massing and bulk, and it will create a suburban like structure on this open countryside which will be visible for a considerable distance to the south. I consider the proposed siting and design is totally insensitive and conflicting to the ancient setting and approach to the monastic site within 250metres to the north of the site, and it will ultimately detract from the approach to the ancient site and be contrary to the Conservation Plan prepared by the Heritage Council, as mentioned above, for the area.

7.4 Residential Amenities

The third-party appellant has claimed the propose development would have a severe impact on the privacy and value of her property. The property in question, is Lemanaghan House, a restored, spacious Victorian period residence set on a landscaped curtilage on the opposite side of the road to the subject site. The house is perpendicular to the local road and faces south towards Pollagh. There is significant screening along the roadside boundary, between the existing house and the proposed dwelling.

Having regard to the orientation of the existing dwelling, the natural screening along the roadside boundary, the buffer area between the existing dwelling and the proposed house, I consider there is no loss of amenity issues arising due to overlooking or loss of privacy. The appellant did not substantiate her claims. I recommend the Board dismiss these grounds of appeal.

Likewise, the devaluation of the property claims has not been substantiated, and because there is no loss of amenity associated with the proposed development to the existing house, I do not consider this issue to be reasonable grounds for appeal and should be dismissed by the Board.

7.5 Traffic/ Access

The proposed access to the dwelling is positioned at the northern extremity of the roadside boundary. The access is located inside of the 50km/hour speed limit. I note from Drawing PL1100ATP, the existing roadside boundary is to be setback over a significant distance along a new line to provide a 60metre sightline in both directions. The specification for the new roadside boundary would need to be sympathetic to the area given the length of hedgerow removal and setback, in the interests of visual amenity.

The third party appellant has made issue of the timing of the relocation of the speed limit signs along the road. This is a Bye Law issue and beyond the remit of this appeal.

7.6 Appropriate Assessment

There are no designated sites in the vicinity of the subject site. The nearest site is Ferbane Bog.

Ferbane Bog SAC 000575

Qualifying Interests

7110 Active raised bogs

7120 Degraded raised bogs still capable of natural regeneration

7150 Depressions on peat substrates of the Rhynchosporion

The subject site is more than 5.5km from the SAC. The planning authority carried out a screening for appropriate assessment and conclude that a Stage 2 Appropriate Assessment is not required. Having regard to the nature and scale of the proposed development, the relative distance of the site from the designation Natura 2000 site and the lack of a pathway to the SAC, I consider no appropriate assessment issues arise. I consider there will be no impact on the habitat area of the SAC as a result of the proposal. In my opinion, the proposed development would be unlikely to have a significant effect on a European site.

8.0 Recommendation

- 8.1. I consider the siting and design of the proposed dwelling will detract from the visual amenities of the area. The scale, massing, positioning, height and design of the proposed dwelling is inappropriate to this rural setting and adversely affect the approach to an old monastic site located within 300metres of the development.

9.0 Reasons and Considerations

It considered that the proposed development because of its scale, height and massing, site layout and siting on an undulating and prominent site on approach to Lemanaghan from the south, would be a visually discordant feature in the rural landscape, adversely affect the character and setting of the monastic site to the north and accordingly would seriously injure the visual amenities of the area and detract from its the rural and vernacular character, and would therefore be contrary to the proper planning and sustainable development of the area

Caryn Coogan
Planning Inspector

15th of October 2018