



An
Bord
Pleanála

Inspector's Report ABP 303003-18

Development	Construction of house and garage.
Location	Ratharney, Abbeyshrule, Co. Longford.
Planning Authority	Longford County Council.
Planning Authority Reg. Ref.	18/35.
Applicant	Lesa Casey.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellants	1. Patrick V. McEntee. 2. William Glennon & Julie Shanley. 3. David & Diane Miller.
Observers	None.
Date of Site Inspection	19 th February 2018.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1. The site forms the southern corner of a t-junction (R399 and the R393) in Ratharney, a rural designated development envelope c. 2km northwest of the village of Abbeyshrule and c.8km north of Ballymahon in County Longford. The northern corner of the site includes a green buffer area that is outside the application site and separated from it by a hedge. The northern corner of the junction has a vacant shop and two storey house. To the rear (south of the site) is a two storey farm house. The immediate area is characterised by a mixture of single storey and two storey houses of varied designs.
- 1.2 The application site, with a stated area of c.0.47 hectares, forms part of a larger field. A fast flowing stream forms the eastern boundary with the remaining boundaries consisting of mature trees and vegetation. A fence is also erected along the southern boundary with the adjoining two storey farmhouse. Access is proposed via an existing field entrance off the R399 c.40m west of the junction with the R393.

2.0 Proposed Development

Permission for a c.191sq.m two storey dwelling with a detached garage, proprietary wastewater treatment system and polishing filter.

3.0 Planning Authority Decision

- 3.1. Grant permission subject to **13** standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Initial Planner's report raised concerns relating to discrepancies in the information submitted. A subsequent further information submission addressed the requirement for a second percolation test to be carried out on site. And the need to revise the siting of the proposed dwelling with a front building line that mirrors the properties on the opposite side of the road. The further information

addressed the outstanding concerns to the satisfaction of the area planner and a recommendation to grant permission was made.

Submissions were noted at initial stage and following the receipt of further information.

There is no reference to housing policy in the planners report.

The report does not address flooding.

There are no Appropriate Assessment or Environmental Impact Assessment Screening reports on file.

3.2.2. Other Technical Reports

None.

3.3. Third Party Observations

Three third party submissions were received at planning application stage, including submissions on the further information. All of whom are appellants to this case. The issues raised in the submissions are broadly in line with the grounds of appeal and shall be dealt with in more detail in the relevant section of this report. Points of note include:

- Land outside the applicants control is included in the application site, including a public green area on the corner.
- Concerns that the proposed development would pollute the stream that bounds the site and impact on the drinking water supply.
- Traffic safety concerns raised due to the proximity of the entrance to a busy junction of two regional roads.
- The site, while zoned for development, is not suitable for residential development.
- Negative impact on residential amenities of adjoining properties.

4.0 Planning History

Planning Authority Reference No. 07/944 refers to a 2007 decision to refuse permission for a residential development consisting of 10 houses for 4 reasons relating to 1) public health risk, 2) non compliance with the minimum separation distances set out in the EPA code of practice, 3) traffic hazard due to the proximity of a junction where there are restricted sightlines and 4) lack of information relating to potential flooding impacts downstream.

5.0 Policy Context

5.1. Longford County Development Plan 2015-2021

Appendix 1F

Ratharney Development Envelope.

The site is located within the designated development envelope of Ratharney Village. The site is located on lands where *residential development in these areas will only be permitted at a small scale, reflective of the character of the existing settlements, Small scale residential development which will alleviate the pressures for one-off housing in the open countryside will be permitted in these areas. These areas will 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).*

Section 3.2 sets out the settlement policy and requirements for residential development.

Core Strategy

CS 1:

The Council shall continue to support the strengthening of the urban and village network throughout the County in accordance with the hierarchy outlined in the following sections and supported by the Regional Planning Guidelines, Sustainable

Rural Housing Guidelines and Sustainable Residential Development in Urban Areas, issued by the DECLG ..

CS 12:

- a) The following categories of applicant shall be considered for the development of housing in the rural area with a view towards sustaining rural communities:
- Members of farm families, seeking to build on the family farm.
 - Landowners with reasonably sized farm holdings who wish to live on their land.
 - Members of the rural community in the immediate area, this includes returning emigrants or their children with remaining substantial family or community ties, who wish to permanently settle in the area.
 - Persons whose primary full or part-time employment is locally based or who are providing a service to the local community.
- b) Speculative and unsustainable urban-generated housing development will be discouraged in the rural area.
- c) Occupancy Conditions may be attached in accordance with Ministerial Guidelines to protect the policy application and integrity.

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.

HOU RUR 2 In terms of rural housing, Longford County Council recognises the need of applicants defined within policy CS 12 to locate in their own rural areas. These cases shall be assessed on their merits, with regard being had to 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 or environmental and landscape integrity.

Notwithstanding that the application site is located within a designated Development Envelope. The: Board should note the following policies

ROADS 11 sets out that routes of strategic importance within the County, as outlined below, shall be protected from further access creation and intensification of existing accesses and development on national routes shall be actively discouraged. Development on the Regional Routes outlined below shall be carefully considered to preserve their strategic role and safeguard the strategic function of the national road network, in accordance with the provisions of the DoECLG Spatial Planning and National Roads Guidelines (2012).

Included in the list are:

- R393 Longford to Ballynacarrigy/Mullingar
- R399 Ratharney to Kilcurry

Works to accesses along these routes shall be assessed according to the relevant technical criteria, including the NRA Design Manual for Roads & Bridges (DMRB).

Section 5.3 Surface Water

SFRA 3 Protect water bodies and watercourses within the County from inappropriate development, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains. This will include protection buffers in riverine and wetland areas as appropriate. Promote the sustainable management and uses of water bodies and avoid, where possible, culverting or realignment of these features.

FLO1 In areas susceptible to flooding, development may be restricted and where necessary developers will be required to submit a Flood Risk/Impact Assessment and proposals for a Sustainable Urban Drainage System (SUDS). This shall also apply in areas where it is considered that the proposed development will impact on flooding elsewhere.

FLO5 Where the probability of flooding from rivers is low (less than 0.1% flood zone C) the developer should satisfy him or herself that the probability of flooding is appropriate to the development being proposed. Among other things, mapping including the OPW's Pluvial and Groundwater Preliminary Flood Risk Assessment mapping should be considered for this purpose.

Section 5.4.3 refers to domestic waste water treatment systems.

Annex 3 Rural Design Guidelines

5.2 Guidelines

National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations.

In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

Sustainable Rural Housing Guidelines (2005):

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures.

To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale

of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

The Planning System and Flood Risk Management. Guidelines for Planning Authorities 2009 (OPW).

The site is not located on lands identified as within a Flood Zone.

5.3 Natural Heritage Designations

There are none in the immediate vicinity. The stream along the northern boundary of the site feeds into the Inny River which flows in a southwesterly direction feeding into Lough Ree at Inney Bay c. 14.5 km from the site and includes the European designated sites Lough Ree SAC (site code 000440) and Lough Ree SPA (site code 004061).

Glen Lough SPA (site code 004045) is c. 7km to the north of the site and Lough Iron SPA (site code 004046) is c. 10km to the northeast.

5.4 Environmental Impact Assessment Screening

5.4.1 Having regard to the nature and scale of the development which consists of a single house and detached garage in a rural location, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

Three third party appeals have been received from:

1. Patrick V. McEntee, Ratharney, Abbeyshrule, Co. Longford.
2. Willian Glennon & Julie Shanley, The Old Forge, Ratharney, Abbeyshrule, Co. Longford.
3. David & Diane Miller, Catlewilder, Abbeyshrule, Co. Longford.

6.1 Grounds of Appeal

All the appeals enclose copies of submissions lodged with the planning authority. The grounds of appeal reiterate the concerns raised in these submissions. There is significant overlap and reiteration of issues raised by all the appellants and I, therefore propose to address these by issue rather than individually. The grounds of appeal can be summarised as follows:

- Housing policy.
- Design & impact of adjoining properties
- Impact on the receiving environment
- Traffic.
- Flood risk.
- Other

6.1.1 Housing Policy.

- The proposal is commercial in nature and would not serve a local person. Strict criteria applies in regard to linear development and genuine need for a house at this location Concerns regarding future development of the site and potential for more houses.

- Notwithstanding that the site is on lands zoned for residential use, it is only suitable for agricultural use.

6.1.2 Design & Impact on adjoining properties.

- The proposed design and scale of the house is inappropriate. A two storey dwelling would be too large for the site and not in keeping with the surrounding area.
- Loss of light, privacy and quality of life due to overlooking and loss of sunlight in the adjoining garden.
- Lack of consultation with neighbours, a lower profile house would be more acceptable and address issues relation to overlooking and overshadowing

6.1.3 Impact on the receiving environment

- Pollution of the stream that runs along the eastern boundary of the site which have a detrimental Impact on livestock in adjoining fields and have a detrimental impact on drinking water supply for the surrounding area.
- Query the accuracy of the site assessment carried out and the conclusions reached.
- Odour from the pwmts
- Concerns that the stream could be polluted during the construction phase which would have a serious negative impact on the local trout and kingfisher population.
- Location of sink/test hole as shown on plans and dug is in the wrong place from a sewerage perspective.

6.1.4 Traffic.

- The proposed entrance would constitute a traffic hazard due to its proximity to the junction of two regional roads, the R393 and the R399.

6.1.5 Flood risk.

- Part of the site is prone to flooding (northern section).
- The proposal would increase the flooding of lands downstream.
- Inadequate social and infrastructure available.
- The development of the site would have a serious impact on the stream bounding the site due to the risk of sewerage entering this stream. The bottom of the adjoining garden is prone to flooding in the winter, if the stream is polluted this situation would be made worse.

6.1.6 Other

- Potential damage to trees along the boundary and in adjoining properties.
- Errors in the information contained in the planning application.
- One drawing shows part of appellant's land included within the application site boundaries.
- Public green area at the junction is included within the application site boundaries.

6.2 Applicant Response

This is mainly in the form of rebuttal, points of note include:

- The site is zoned under the Ratharney Plan contained within the Longford County Development Plan 2015-2021.
- Zoning objective: Small scale residential development which will alleviate the pressures for one-off housing in the open countryside will be permitted in these areas.
- Two percolation tests were carried out as part of the planning application process. The Planning Authority was satisfied with the results.

6.3 Planning Authority Response

None.

6.4 Observations

None

6.5 Prescribed Bodies.

The appeal was referred to Inland Fisheries Ireland. No response received.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Housing policy.
- Design and impact on adjoining properties.
- Traffic.
- Flooding.
- Impact on the receiving environment.
- Appropriate Assessment.

7.1. Housing Policy

- 7.1.1 The appellants have raised concerns that the proposed development is commercial in nature and would not serve a person with an established local need for a house in the area. The applicant has refuted this and highlighted that the site is located within the Ratharney Development Envelope and has referred to the policy contained in Appendix 1 F that reads ' *Small scale residential development which will alleviate the pressures for one-off housing in the open countryside will be permitted in these areas*'. I have examined the policy in question and I note that it goes on to say '*These areas will 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)*'.
- 7.1.2 This issue is not addressed in the planner's reports on file. In my opinion, the policy is clear, it sets out that notwithstanding the location of a site within a designated development envelope that compliance with the adopted rural housing policy is required. Policy CS12 clearly sets out the categories of persons whom may qualify for a house in the rural area. HOU RUR 2 also applies. There is no information on file to demonstrate that the applicant complies with the adopted one-off housing policy set out in the Longford County Development Plan 2015-2021.
- 7.1.3 Notwithstanding the location of the proposed development within an identified Development Envelope according to the Longford County Development Plan 2015-2021, I consider that the site is located within a rural area under urban influence, and having regard to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018 which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, in this instance I do not consider that the applicant has demonstrated compliance with National Policy Objective 19.
- 7.1.4 Based on the information on file the applicant has not demonstrated that they comply with policies set out in the current County Development Plan for a house at this location and permission should be refused.

7.2 Design and impact on residential amenity

- 7.2.1 Annex 3 of the current County Development Plan sets out the rural design guidelines for houses in the rural area. These standards apply to the current proposal for a single house in Ratharney.
- 7.2.2 The ground of appeal have raised concerns that the design and scale of the house itself is inappropriate and not in keeping with the existing built form of the area. At the time of inspection I noted that immediately adjoining the site to the south west is a two storey house. There are a number of two storey and single storey dwellings in the immediate vicinity. The immediate area is, therefore characterised by a variety of house types, design and scale and I do not consider that the proposed design and scale, while suburban in nature, warrants a reason for refusal.
- 7.2.3 The appellants have raised the issue of residential amenity and state that the proposal will result in overlooking and loss of privacy, will be visually out of character with the area, result in overshadowing and loss of light.
- 7.2.4 The proposal is to construct a two storey dwelling c. 36m set back from the southern boundary which adjoins a field. In terms of overlooking and loss of light, these are not material consideration in this instance given the orientation of the proposed house, its setback from the site boundaries, relationship with adjoining properties and the existing boundary treatment and proposed landscaping.
- 7.2.5 In relation to visual amenity, the proposed dwelling is sufficiently set back from surrounding properties so as not to be visually overbearing. Similar considerations apply having regard to overshadowing, and I do not consider any material overshadowing of neighbouring sites will result. In relation to light pollution, while the lights of the proposed dwelling may well be seen from neighbouring properties, the impact of same will not be material, and there is other development in the vicinity which would result in similar impacts.

7.3 Traffic.

- 7.3.1 The grounds of appeal have raised concerns that the proposed entrance would constitute a traffic hazard due to its location and proximity to a busy junction serving two regional roads. This matter was not addressed in the Council's

Planner Reports and there are no reports on file from the Area Engineer or the Roads Section.

- 7.3.2 While I acknowledge that the site is located within a designated Development Envelope, the relevant road safety standards contained within the current County Development Plan and national guidance apply.
- 7.3.3 Under Planning Authority Reference No 07/944 permission was refused for 10 houses on this site in 2007, the reasons for refusal included traffic safety and cited proximity to the junction and restricted sightlines.
- 7.3.4 The current application includes proposals to upgrade a field entrance off the R 393 c.40 m from its junction with the R399 where sightlines are restricted. I have serious concerns that the provision of an entrance at this location would have a negative impact on the safety and free flow of traffic on the adjoining regional road at a point where there is a continuous white line, which would be further exacerbated by its proximity to a busy junction serving 2 regional roads.
- 7.3.5 The adjoining regional roads (R399 and R393) have been identified as strategic routes within the county and are subject to policy ROADS 11 which seeks to restrict new access points onto these roads. The site is located within a designated development envelope, I am of the view that this policy applies to sites outside designated development envelopes and settlements. Therefore, I do not consider that a reason for refusal on this basis should be forthcoming.
- 7.3.6 The achievement of sightlines in a westerly direction would require the removal of roadside boundary consisting of mature trees and vegetation. As the site is located within a designated Development Envelope it is expected that roadside boundaries will be altered to facilitate appropriate development and I do not consider that permission should be refused on the basis of the removal of hedgerow.

7.4 Flood risk

- 7.4.1 The National Planning Framework is clear on the issue of flooding and states that inappropriate development in areas at risk of flooding should be avoided and new developments that increase flood risk elsewhere, including that which

may arise from surface run off, should also be avoided. National Policy Objective 57 states that *inter alia* inappropriate development in areas at risk of flooding should be avoided in accordance with the 'The Planning System and Flood Risk Management Guidelines for Planning Authorities'.

- 7.4.2 The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) are also unambiguous in relation to flooding and also state that inappropriate development should be avoided. It is further stated that where flood risk may be an issue for any proposed development, a more detailed flood risk assessment should be carried out appropriate to the scale and nature of the development and the risks arising. The detailed Site-specific Flood Risk Assessment should quantify the risks and the effects of any necessary mitigation, together with the measures needed or proposed to manage residual risks.
- 7.4.3 The appellant have raised the issue of flooding in the area, and have cited previous flooding events. It is stated that the issue of flooding has not been adequately considered in the application documents and that site works, including the change of levels and infilling of the site may increase the risk of surface water run off onto adjacent sites.
- 7.4.4 While the site falls outside flood zones A and B, these flood zones are only indicative of river and coastal flooding only and do not suggest that the site is free from flood risk, as they do not include the effects of other forms of flooding, including pluvial and groundwater flooding.

- 7.4.5 Potential flooding downstream was raised and included as a reason for refusal under Planning Authority Reference No 07/944. The appellants have raised serious concerns that not only is the northern application site prone to flooding but that adjoining lands are also flooded on a regular basis. I note that this issue was not addressed in the planners report.
- 7.4.6 The current application before the Board has a serious deficiency in information relating to the potential flooding of the site. There is no assessment of the potential flood risk the development presents or the potential impact on the adjoining stream to the east and lands downstream.
- 7.4.7 Given the planning history of the site I would have expected the application to have been accompanied by the Site Specific Flood Risk Assessment, that would consider *inter alia* sources of flooding, all known previous flood events, site specific factors exacerbating or otherwise flood risk as well as pathways of floodwaters, a consideration of receptors at risk, as well as a detailed analysis of any mitigation measures proposed. Therefore I am not satisfied, given the information on file, that the proposed dwelling house will not be at risk of flooding, nor am I satisfied that the proposal will not increase the risk of flooding of surrounding lands.

7.5 Impact on the receiving environment

- 7.5.1 The current County Development clearly sets out the requirements for the provision of services and assessment of flooding hazards, both of which have been raised by all of the appellants in the grounds of appeal. This issue was also raised in 2007 under Planning Authority Reference No.07/944 for a development of 10 houses on the application site.
- 7.5.2 The 2007 decision to refuse permission included public health as a reason for refusal. At the time serious concerns were raised relating to the impact of development on the fast flowing stream that bounds the application site to the east that in turn feeds into the River Inney a short distance upstream of the Ballymahon Regional Water Supply intake which supplies a large surrounding area.

7.5.3 The appellants have raised concerns that the proposed development and the provision of an onsite proprietary waste water treatment system would result in the pollution of the stream bounding the site. Queries were raised regarding the quality of the Site Assessment that was carried out and the reliability of the results obtained. I have examined the site characterisation reports submitted with the application and I note that the assessors has submitted details of his indemnity insurance. While I note that the appellants have raised serious concerns, there is no documentation or evidence submitted with the appeals to support these assertions.

7.5.4 Trail holes were filled in at the time of my site inspection and the areas in question grassed over. Based on the information on file and the Site Characterisation reports on file prepared by a qualified assessor and the lack of counter evidence I can only note the results of the tests dated 30 & 31st July 2018 submitted as part of the further information. These indicated a t-value of 10.50 and a p-value of 10.58. Proposal to install an onsite wastewater treatment system and a soil polishing filter.

7.5.5 Notwithstanding, in this instance in the absence of a site specific flood risk assessment, including a detailed analysis of potential flood extents, I cannot be satisfied that the site is suitable for the wastewater treatment proposed and that no significant risk of ground or surface water pollution exists.

7.6 Other

7.6.1 Trees

7.6.1.1 The grounds of appeal raised concerns that the proposed development may result in damage to trees along the site boundaries and in adjoining properties. There are no TPOs attached to these trees and I consider that any outstanding issues relation to landscaping and tree protection or removal of trees within the applicants control can be required by condition if the Board considers granting permission.

7.6.2 Landownership

7.3.2.1 The issue of landownership is a civil matter. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as

amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

7.6.3 Validity of the application

7.6.3.1 The applicant was deemed valid by the planning authority. Discrepancies noted were raised at further information stage and the response was considered acceptable by the planning authority at the time.

7.7 Appropriate Assessment

7.7.1 A streams runs along the eastern boundary of the site. This watercourse links to the Inny River which in turn feeds into Lough Ree SAC (site code 000440) and Lough Ree SPA (site code 004061) c14.5km to the southwest of the site. Conservation Objectives have been prepared for the sites.

7.7.2 Given the separation distance and pathway linking the site to the designated site there is, in effect, no significant hydrological connection to the designated site referred to in paragraph 7.4.1 above.

7.7.3 There are no record on file of an Appropriate Assessment Screening carried out by the Planning Authority.

7.7.4 Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000440 or Site No. 004061 or any other European site, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

I recommend that permission be refused for the reasons and consideration set out below

9.0 Reasons and Considerations

1. The site of the proposed development is located within a designated development envelope of Ratharney as defined in the Longford County Development Plan 2015 – 2021. It is considered that the applicant has not demonstrated that he meets the criteria for a house in this area as set out in the Development Plan and as such, the proposed development would materially contravene the objectives of the current Longford County Development Plan in relation to rural settlement, militate against the preservation of the rural environment and be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a busy regional road at a point where sightlines are restricted in a westerly direction and its proximity to a major junction.
3. Having regard to the guidance as set out in 'The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)', in relation to development proposals in areas at risk of flooding, it is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, the proposed development would be contrary to the proper planning and sustainable development of the area.
4. Having regard to the lack of an adequate flood risk assessment, and having regard to the planning history associated with the site, the Board is not satisfied that the site is suitable for the treatment and disposal of domestic foul effluent in accordance with the "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)", 2009 and

subsequent clarifications issued by the Environmental Protection Agency, having regard to the potential contamination of flood waters resulting from an inundation of the site. The proposed development would, therefore, be prejudicial to public health.

Dáire McDevitt

Planning Inspector

25th February 2019