



An
Bord
Pleanála

Inspector's Report ABP-303401-19

Development	Construction of a dwelling house, garage, installation of sewerage treatment tank with percolation area and all associated site works
Location	Urney, Clonygowan, Geashill, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	18207
Applicant(s)	Enda and Niamh Bourke
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Enda and Niamh Bourke
Observer(s)	None
Date of Site Inspection	1 st of May 2019
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site area is 0.303ha and it is located in the townland of Urney which is north west of the village of Cloneygowan alongside the Regional Road, R420. It is located in the open countryside. There is a thatched cottage and outhouses to the south, with a gate into the subject site from this property. There is another bungalow immediately north of the subject site.
- 1.2. The site is setback from the edge of the Regional Road by approximately 7metres with a deep grass verge between the edge of the road and the front boundary fence. The front boundary fence is a concrete post and rail fencing, with disused prefab located inside the front site boundary.
- 1.3. The site itself has an eastern orientation. It has no features. It is a long narrow site with a mature indigenous hedging along the southern site boundary, the western site boundary and part of the northern site boundary.

2.0 Proposed Development

- 2.1. Construction of a Dwelling House, garage and installation of a sewage treatment system and associated site works.
- 2.2. The proposed dwelling is a two storey four bedroom house, and a detached garage, with a total floor area of 259sq.m.

3.0 Planning Authority Decision

3.1. Decision

Offaly Co. Co. refused planning permission for the proposed development for one reason.

The proposed site is located on a restricted Regional Road where under the provisions of Policy SSP 19 of the Offlay County Development Plan 2014-2020, it is Council Policy to consider a single dwelling for the permeant occupation of the applicant in Areas of Special Control only where all of the following can be demonstrated:

- *Applicant must meet criteria of one or more of the 3 categories of Policy SSP-18 and,*
- *Applicant has a functional need to reside in this particular rural area*
- *No alternative site is available outside the areas of special control and,*
- *Applicant does not already own or has owned a house in a rural area.*

The Council considers that the applicant does not comply with Policy SSp-19 as he does (not) have a functional need to reside in this particular rural area and accordingly the proposed development would materially contravene the 2014-2020 Offlay County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Local Needs policy SSP 18 applies to the proposal, and the site adjoins a Strategic Regional road. The Rural Housing Policy for Areas of Special Control SSP19 applies, therefore the applicant must supply land registry maps, and family landownership details. Confirm that there is no alternative site available. The proposed house design is acceptable other than a more traditional door design is required. Revised sightlines, Further Information is recommended.

Further Information

This was received by the planning authority on 11th of September 2018.

- The site was bought in 1984 by the applicants grandmother Anne Guinan. The ownership of the site was transferred from Niamh Bourke's father to Niamh in 2016.
- The applicants current live with their 5No. children in Backwood, Clonygown, Co. Offlay. They had originally lived in a Council house in Portarlington, but relocated to her late grandfather's house in 2017.
- Enda is a Prison Officer in Portlaoise, which is 23km from his place of work. Niamh is a child minder in Portarlington. The children currently attend school

in Portarlington but they will move to Clonygowan NS when planning permission is granted.

- The sight lines are 150metres on both sides
- The front porch design has been amended.

Clarification of Further Information was requested by the planning authority on 3rd of October 2018 regarding compliance with Local Needs development plan policies.

Planning Report (2)

- The subject site is located in a pressure area with strong urban influence
- SSP-18. The applicant has not demonstrated their compliance with Category 1.
- STAP-19 It is policy where restricted access onto Regional Roads must comply with criteria set out under Rural Housing Policy SSP-19, neither applicants satisfy the functional need of Policy SSP-19.

3.2.2. Other Technical Reports

Roads: The site is located along the Regional Road R420 with a speed limit of 80km/hour applicable. The stated 150m sightline indicated on the Clonygowan side of drawing P1002 is not achievable. The trees/ hedge on the approach would need to be removed with the consent of the landowner.

Environment / Water Services: No objections and conditions recommended.

Area Engineer: No objections and conditions recommended.

Roads (2): The access is acceptable. However, development plan policy SSP-19 is applicable to this case.

3.3. Prescribed Bodies

There were no submissions received.

3.4. Third Party Observations

There were no received apart from a political representation.

4.0 Planning History

96/640

Paul Guinan refused planning permission for a dwelling house on the subject site

96/17

Paul Guinan granted Outline Permission for a Dwelling House on the subject site.

5.0 Policy and Context

5.1. National Policy

Sustainable Rural Housing Guidelines DOEHLG 2005.

The site is located in an area designated in the Guidelines as a Stronger Rural Area. **Stronger Rural Areas.** In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.

5.2. Development Plan

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 with 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.

Policy: Rural Housing Policy for Areas of Special Control

SSP – 19 Having regard to the need to protect County Offaly's natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Areas of Special Control where **all** of the following can be demonstrated:

1. Applicant must meet the criteria of one or more of the 3 categories of Policy SSP - 18 (Rural Housing Policy) and,
2. Applicant has a functional need to reside in this particular rural area,
3. Adequate measures are proposed which will ensure protection of the drinking water source from any deleterious effects of the development (source protection zones).
4. No alternative site is available outside the areas of special control and,
5. Applicant does not already own or has owned a house in a rural area.

Areas of special control include (Refer to Map 1.4):

- **National/International Conservation Designations (SPA, SACs, NHAs).**
- **Areas of High Amenity.**
- **Source Protection Zones.**
- **Restricted Regional Roads (as per list set out in Chapter 4).**

‘Functional need’ is defined as a need to reside at this particular location in exceptional circumstances to be outlined by the applicant or for the purposes of employment.

5.3. Natural Heritage Designations

Distance to the nearest European Site River Barrow and Nore SAC is 6.3km

6.0 The Appeal

6.1. Grounds of Appeal

The proposed site is 1.8km from the applicants’ current residence which was formerly owned and occupied by Niamh Bourke’s grandparents. Niamh’s family have lived in the rural area for over 50 years and the proposed site has been owned by Niamh’s family for over 30 years. The applicants have no alternative option to construct a dwelling in a different area. They do not own any other land, and this is the only site available to them.

The proposed site has been approved for a water scheme connection. A percolation test carried out indicated the site is suitable for a septic tank sewage treatment system and the proposed location of the site entrance will allow for a minimum of 150metres sight lines in both directions.

Both applicants do not and have not in the past owned or built a house in a rural area. The subject site is the only location available to them where they can seek planning permission.

Included with the appeal is a site location map, and drawings of the development proposal.

6.2. **Planning Authority Response**

There are no further comments from the planning authority.

7.0 **Assessment**

7.1 **Planning Policy**

The proposed development is a one-off dwelling in the open countryside. The ‘*Sustainable Rural Housing – Guidelines for Planning Authorities*’, issued by the Department of the Environment, Heritage and Local Government in April 2005; indicate that the site is located within a ‘**Stronger Rural Area**’ – in this instance, largely but not solely, arising from the proximity to Tullamore and Portarlington. “In such areas, population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas”. Niamh Bourke claims to have connections with this rural area, however these are not detailed on the planning file apart from the fact her grandmother, Anne Guinan inherited the site in the 1970s, and it was transferred to her son John (Niamh’s father) in 2000s, who subsequently transferred it to his daughter Niamh in 2016. The site does not form part of a larger family landholding, it would appear to be a standalone site passed down through the family during previous decades. The *Guidelines* refer to favourable consideration being given to those working full-time or part-time in rural areas, or persons whose work relates to rural areas – such as teachers in rural schools. The *Guidelines* would appear to compass the notion of a rural-based job linked to one particular area – as opposed to say a builder, sales representative, mechanic – whose work would take them over a wide rural area. In this case, one applicant works in Portlaoise and the other works in Portarlington with their children in school in Portarlington, I would consider that the applicants fail to meet the requirement of persons working full-time or part-time in rural areas – by reference to the *Guidelines*.

7.2 The planning authority decided that the applicants did not meet the current development plan policy for a rural dwelling at the subject location. The planning authority gave the applicants two opportunities to present their case, by way of a detailed further information request and subsequent clarification of further information request.

In terms of development policy the applicants must comply with Policy **SSP- 19 Rural Housing Policy for Areas of Special Control**. The subject site is located along a Restricted Regional Road, consequently all five of the following criteria must be complied with by the applicants:

1. Applicant must meet the criteria of one or more of the 3 categories of Policy SSP - 18 (Rural Housing Policy) and,
2. Applicant has a functional need to reside in this particular rural area,
3. Adequate measures are proposed which will ensure protection of the drinking water source from any deleterious effects of the development (source protection zones).
4. No alternative site is available outside the areas of special control and,
5. Applicant does not already own or has owned a house in a rural area.

The applicants have not demonstrated a functional need as defined by the development plan to reside at this particular location except to state that one of them owns the subject site. I consider the applicants satisfy items 3-5 above as presented in their case.

In terms of meeting criteria 1, both applicants have failed to demonstrate compliance with Rural Housing Policy SSP-18, whereby an 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 rural housing need. The applicants have been living 1.8km from the subject site since February 2017. There has been no other evidence to demonstrate either applicants' connections or links to the local community for the past or previous five years. It would appear from the evidence presented on the planning file that neither applicant was born, lived in or

has connections to the local rural area. Therefore, they do not comply with Policy SSP-18.

7.3 House Design and Layout

The site is a regular rectangular one-off site, which is level and has no particular features. There are neighbouring dwellings to the north and south of the site. The overall design of the proposed dwelling is a partially two storey and partially dormer bungalow, with a detached garage to the rear. A revised design was submitted as part of the further information which included a revised porch design with a selected stone finished. The overall design is simple, modest in scale and acceptable in terms of the existing development pattern and design in the area.

7.4 Roads

The subject site is accessed from a Regional Road where the national speed limit is applicable. The proposed access, at the northern roadside extremity of the site, requires a sightline of 150metres in both directions. The sightline on the submitted drawings is taken from the edge of the road and not the 2metre setback from the edge of the road as required. I noted from my inspection, the front boundary of the site and the edge of the road are setback circa 7metres, with a deep grass verge between the site and the road.

I noted from 2.5metres from the road edge into the grass verge the sightline is acceptable in both directions, as marked on the submitted site layout plan.

7.5 Sewage Treatment

A septic tank and percolation area is proposed to the rear of the site and the development. The percolation values recorded on the site during a test of the subsoil included P:29 and T value: 11.53. The design of the sewage treatment system conforms to the *2009 EPA Code of Practice Waste Water Treatment and Disposal System Serving Single Houses*. The subject site during inspection is a grassland with a vegetation conducive to free draining soil. There was no evidence of ponding or poor drainage during myself inspection.

7.6 Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the

environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

7.7 Appropriate Assessment

The PA carried out screening for appropriate assessment. The closest European site located 6.3km from the site. It is Site No. 002162 which is the River Barrow and River Nore SAC. Having regard to limited nature of the proposed development, proximity to European sites, and to the fact that there are no connections to the surface water network in the area, no Appropriate Assessment issues arise; and it is not considered that the proposed development would be likely to have a significant effect individually, or in combination with other plans or projects, on an European site.

8.0 Recommendation

- 8.1. The planning authority's decision to refuse planning permission for the proposed development be upheld for the following reason.

9.0 Reasons and Considerations

The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, 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 documentation submitted with the application and appeal, the Board is not satisfied that the applicants have a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicants do not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, to the provisions of the current Offlay County Development Plan 2014-2020, and would be contrary to the proper planning and sustainable development of the area.

Caryn Coogan
Planning Inspector

2nd May 2019