



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306726-20

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<b>Development</b>	Erection of house, proprietary wastewater treatment unit, boundary walls/fencing.
<b>Location</b>	Twyford , Bealin, Athlone, Co Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	197250
<b>Applicant</b>	Declan Ganley
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse Outline Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Declan Ganley
<b>Date of Site Inspection</b>	11 <sup>th</sup> August 2020
<b>Inspector</b>	Dolores McCague

## **1.0 Site Location and Description**

- 1.1.1. The site is located at Twyford, Bealin, Athlone, Co Westmeath. Bealin, located about half way between Athlone and the village of Mount Temple (c5km east of Athlone) is a settlement of dispersed modern one-off housing where the only service of note is a primary school. The dispersed settlement is spread along the road frontage of a number of local roads including the L147 (Athlone to Mt Temple) and other local roads extending north and south of that road. The subject site is on a private cul de sac road, north of the L147, which terminates a short distance beyond the site. There are a number of other houses with access from this road.
- 1.1.2. The site comprises a section of flat field adjoining two dwellings, running to the rear boundary of the two detached dwellings and along the northern (side) boundary of one. At the north eastern end of the field there is a shed is set back approximately 110 metres from the road boundary served by an access driveway.
- 1.1.3. The national monument Bealin High Cross is located on high ground on the opposite side of the road.
- 1.1.4. The site is given as 0.514ha.

## **2.0 Proposed Development**

- 2.1.1. The proposed development is the erection of a house, to be provided with a proprietary treatment unit, boundary wall and fencing.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The planning authority decided (4<sup>th</sup> February 2020) to refuse outline permission for 3 reasons:

1 Contrary to Rural Housing Guidelines and County Development Plan as a rural house in a rural area under urban influence and in the absence of definable or demonstrable need by the applicant who currently owns and resides in a dwelling in Baylin.

2 Cumulative impact of an additional septic tank/ wastewater treatment system.

3 Injury to amenities and precedent.

3.1.2. The decision was in accordance with the planning recommendation.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning report recommending refusal includes:

- National Planning Framework - Policy objective 19

CDP:

P-LHN-1 To permit residential development in areas outside of the development boundaries of the settlement hierarchy subject to the following circumstances:

- (1) Persons who are actively engaged in agriculture, horticulture, forestry, bloodstock and peat industry,
- (2) Members of farm families seeking to build on the family farm,
- (3) Landowners and members of landowners' families (landowner for this purpose being defined as persons who owned the land in question since the year 2000),
- (4) Persons employed locally whose employment would provide a service to the local community,
- (5) Persons who have personal, family or economic ties within the area, including returning emigrants
- (6) Persons who wish to return to farming and who buy or inherit a substantial farm-holding which is kept intact as an established farm unit, will be considered by the Council to be farmers and will be open to consideration for a rural house, as farmers. Where there is already a house on the holding, refurbishment or replacement of this house is the preferred option.

P-LHN2 To manage the development of one off rural housing in conjunction with the Rural Typology Map and Local Need criteria. Applicants must submit documentary evidence of compliance with the rural housing policy and comply with local need criteria.

- The site is outside the limits of Baylin Unserviced Settlement – map included in the planning report. The applicant has not demonstrated local need.
- Recommending refusal for three reasons.

### 3.2.3. Other Technical Reports

3.2.4. District Engineer – 28/01/2020 – proposed connection to group water scheme. Effluent disposal by effluent treatment unit and filter bed; conditions re roads, surface water and wastewater.

### 3.3. Prescribed Bodies

Notified to prescribed bodies, no observations received.

### 3.4. Third Party Observations

A third party observation was received including:

## 4.0 Planning History

These histories refer to the field of which the subject site forms part:

PL25A.246083 Planning Authority Reg. No: 15/7120: application by Declan Ganley for planning permission for retention of constructed shed, concrete yard, proposed erection of a dungstead and completion of wastewater system, ground works and landscaping for Equine / Agricultural purposes; refused on an appeal against the planning authority's decision to refuse; two reasons: 1 that the need for the scale and extent of the shed structure and ancillary works proposed to be retained and completed has not been demonstrated in terms of serving an agricultural landholding; 2 the establishment of a new farm yard servicing and dependent on a dispersed landholding is considered inappropriate in this location having regard to the deficiencies of the road network serving the development in terms of capacity, width and the structural condition of the pavement of the laneway and deficiencies in the sightlines on accessing the public road.

RL 3510 - referral by Declan Ganley of six questions in relation to agricultural use of land and agricultural development, determined by the Board in 2018.

RL3559 - referral by Declan Ganley of four questions in relation to various developments, including: a 300 square metre structure for the purposes of housing a fully enclosed combined heat and power system; erection on a wall, within the curtilage of an agricultural holding of photovoltaic solar panels; provision of a biomass boiler, including a boiler house, flues on the boiler and overground storage tank as part of a heating system for an agricultural building; and the erection of a wall. The referral was determined by the Board in 2018

301319 - a referral by Caroline Ganley of two questions in relation to grassed areas and concrete areas, determined by the Board in 2019.

ENF 1503 enforcement file re large shed; concrete yard; access track.

## **5.0 Policy Context**

### **5.1. National Policy**

### **5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005)**

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. This area is identified as a rural area under strong urban influence, due to its proximity to the immediate environs or close commuting catchment of large cities and towns where strict control on housing development must be applied.

### **5.3. National Planning Framework – Project Ireland 2040**

NPO19 - Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere.

In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;

In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to

#### 5.4. **Development Plan**

5.4.1. Westmeath County Development Plan 2014-2020 is the operative plan. Relevant provisions include:

- The site is located in an un-zoned rural area.
- The site is in a 'rural area under strong urban influence'.
- Policies for Rural Areas under Strong Urban Influence are set out in Section 10.3

The policy is to facilitate housing development by people who have strong links to the particular rural area, who are an intrinsic part of the rural community.

#### 11.3.1 Rural Centres

The larger towns and villages in the county are the main service centres in rural areas, providing a range of facilities, shops and services at a scale appropriate to the needs and size of their catchment areas. They provide a focus for economic development and rural-based industries. The Council is committed to supporting the role of the smaller villages in the county to support the rural areas and has adopted Village and Local Area Plans to facilitate the social infrastructure of the villages. The 2008 County Development Plan identified a number of unserviced settlements where small scale individual house developments were permitted without requirement to meet a rural housing need. These settlements are listed in Appendix 14 of the Plan. Any development proposals in these areas will be subject to rigorous assessment in terms of wastewater treatment in the context of the EPA Code of Practice for the treatment of wastewater from single houses. In this context, the Code of Practice places particular emphasis on the assessment of potential impacts of development clusters in particular in areas of high groundwater vulnerability. The Core Strategy (Chapter 2) and Settlement Plans (Chapter 13) contain details of the Settlement hierarchy for the county and individual Settlement Plans for towns and villages/ rural centres.

Local Housing Need within Strong Rural Areas under Significant Urban Influence, will be assessed having regard to local need housing policy outlined below:

P-LHN-1 To permit residential development in areas outside of the development boundaries of the settlement hierarchy subject to the following circumstances:

- (1) Persons who are actively engaged in agriculture, horticulture, forestry, bloodstock and peat industry,
- (2) Members of farm families seeking to build on the family farm,
- (3) Landowners and members of landowners' families (landowner for this purpose being defined as persons who owned the land in question since the year 2000),
- (4) Persons employed locally whose employment would provide a service to the local community,
- (5) Persons who have personal, family or economic ties within the area, including returning emigrants
- (6) Persons who wish to return to farming and who buy or inherit a substantial farm-holding which is kept intact as an established farm unit, will be considered by the Council to be farmers and will be open to consideration for a rural house, as farmers. Where there is already a house on the holding, refurbishment or replacement of this house is the preferred option.

P-LHN2 To manage the development of one off rural housing in conjunction with the Rural Typology Map and Local Need criteria. Applicants must submit documentary evidence of compliance with the rural housing policy and comply with local need criteria.

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## **5.5. Natural Heritage Designations**

- 5.5.1. The nearest Natura sites is Carn Park Bog SAC 002336 (designated for active raised bogs, degraded raised bogs still capable of natural regeneration) less than 550m straight line distance to the south east, upstream.

## 5.6. EIA Screening

- 5.6.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/the absence of any connectivity to any sensitive location, 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 and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The first party appeal against the Planning Authority's decision to refuse permission submitted by Liam Madden of Vitruvius Hibernicus, includes:
- The planner's report states that the site is outside the speed limit. The entirety of Bealin is within a 50km speed zone and so is the site.
  - The planner's report states that the site is outside the limits of Baylin Unserviced Settlement map; this is untrue.
  - The report in relation to history is inaccurate.
  - The site is not subject to enforcement. In a previous allegation of unauthorised development comprising a shed, yard and access track, part was declared exempted and the allegation was contested and the prosecution dismissed by the Courts.
  - Re. referrals, several points are made in the submission, which are then stated to be of academic interest and have no bearing on this site.
  - Design and siting – the site width is almost identical to the house adjoining, approved in 07/1139, but at the rear is about 4 times the width. Enforcement of 07/1139 regarding non-compliance was being considered by the planning authority, but the applicant's company has facilitated compliance by a transfer of additional lands. The subject site is two to three times the area of almost all nearby dwellings.



- Linear development – the house location would be the subject of permission consequent. The lands to the north are privately owned by the applicant's company. There is no prospect of large scale housing development. To the left of the road the lands are host to a national monument and the mound is likely to be a caldragh/burial ground.
- Economic or social need – the planner's report includes a map purporting to represent the of Bealin Unserviced Settlement. The map is wrong. The relevant map was obtained from the planning office. It is clear that the site is within the Bealin Unserviced Settlement and it is not necessary to justify the proposal on economic or social need.
- The reason for the application are set out: the applicant is a racehorse owner and keeps horses. He and his wife propose to retire to a house more suited to their needs, from their existing house in Bealin. The existing house would go to one of the two offspring, and the adjoining house, formerly Mr Ganley's parents' house, would go to the other offspring.
- Mr Ganley is self-employed and provides a service to the local community. Organisations in which he is involved are listed. He and his wife's connections with the local area are listed.
- The Bealin Unserviced Settlement map is not part of the current County Development Plan. They rely on policies P-LHN1 and P-LHN2. Mr Ganley satisfies every test.
- The wastewater treatment unit is state of the art. The site is suitable for a standard septic tank. The two adjoining sites were approved for standard septic tanks.
- Haphazard, linear, piecemeal, precedent – the pattern in Bealin was created by the Council. Further development is not in prospect.
- Further to the assessment comments that there is little or no open space, the retention of openness of the balance of the lands adjoining can be achieved by condition.

## **6.2. Planning Authority Response**

6.2.1. The planning authority has not responded to the grounds of appeal.

## **7.0 Assessment**

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, Bealin unserviced settlement, rural housing policy, and effluent disposal and the following assessment is dealt with under these headings.

### **7.2. Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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 a European site.

### **7.3. Bealin Unserviced Settlement**

7.3.1. The document Planning Assessment of Baylin, submitted with the application, is a copy of a document 'Unserviced Settlements – Athlone Area' which was associated with the 2008-2014 County Development Plan. It includes a map with boundaries indicated by a staple like shape on each road to indicate the extent of the unserviced settlement along the road. In the document submitted by the applicant this map has been modified by a dashed line connecting the staples and by colouring the area enclosed, to indicate in depth development, which was not the purpose of the original map. On the altered map the site is indicated as being within the development boundary, where it extends behind existing dwellings. The boundary for the original unserviced settlement map does not include the subject site.

7.3.2. While the current development plan makes reference to unserviced settlements including Baylin, it emphasises the settlement strategy and the importance of groundwater protection in this regard and it therefore appears that the designation unserviced settlement is of historic interest only.

7.3.3. Insofar as the unserved settlement status of Baylin is of any relevance under the current plan, the subject site is outside the defined area. The rural housing policies provide the policy context in which the subject site is assessed.

#### **7.4. Rural Housing Policy**

7.4.1. Rural Housing

7.4.2. The grounds of appeal refers to the applicant's local housing need. It is stated that the applicant lives in this area and is a horse owner. He is self employed and provides services to the local community. It is his intention to retire to a house on the subject site, where his interest in horse owning could be facilitated. The links of the applicant and his wife to this rural area are listed. The applicant also refers to his intentions with regard to his existing house in Bealin and the second house adjoining his existing house.

7.4.3. In my opinion the applicant has not demonstrated any housing need. The policy framework for rural housing in areas under strong urban influence, as set out in the Sustainable Rural Housing Guidelines, the National Planning Framework and the Westmeath County Development Plan 2014-2020, requires that such need must be demonstrated so that housing, which would generate unsustainable demands for infrastructural provision and the ongoing provision of services and which would create unsustainable travel patterns, is resisted.

7.4.4. In my opinion this is a reason to refuse permission.

#### **7.5. Reason number 2**

7.5.1. The second refusal reason refers to the cumulative impact of an additional septic tank/wastewater treatment system.

7.5.2. A site characterisation form is provided with the application. The groundwater protection response is 'R1'. The EPA Code of Practice: Wastewater Treatment Systems for Single Houses states in relation to 'R1' that a septic tank is acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP). Other items listed on the site

characterisation form include: high groundwater vulnerability, locally important aquifer, and yes to groundwater protection scheme.

- 7.5.3. As pointed out in the grounds of appeal, the subject site is suitable for a septic tank disposal system and the wastewater treatment system is a 'belt and braces' approach. I note that there is a concentration of on-site wastewater disposal systems in this area, but there is no indication that the proposed site is unsuitable for an on-site system. In my opinion the rural housing policies restrictions include the desirability of restricting unserviced residential development because of the potential cumulative impact of on-site wastewater treatment systems. There are no specific issues related to the subject site or the proposed development which would indicate that the cumulative impact of an additional septic tank/ wastewater treatment system should be a reason for refusal.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1 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, wherein it is the policy to distinguish between urban-generated and rural-generated housing need. 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 viability of smaller towns and rural settlements. Furthermore the Westmeath County Development Plan 2014 – 2020 policy P-LHN2 to manage the development of one off rural housing in conjunction with the Rural Typology Map and Local Need criteria, requires applicants to submit documentary evidence of compliance with the rural housing policy and comply with local need criteria. Having regard to the

documentation submitted with the planning application and appeal, including the stated residency of the applicant and his wife, the Board is not satisfied that the applicant comes within the scope of the housing need criteria as set out in the Guidelines, or has a demonstrable economic or social need for the proposed dwelling in this rural area. The proposed development would contravene the Westmeath County Development Plan 2014-2020 and be contrary to national policy.

2 The proposed development would contribute to the encroachment of random development in a rural area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

19<sup>th</sup> August 2020

Appendices

Appendix 1 Photographs

Appendix 2 Westmeath County Development Plan 2014-2020, extracts