



An  
Bord  
Pleanála

## Inspector's Report ABP 308147-20.

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<b>Development</b>	Dwelling and on-site wastewater treatment system.
<b>Location</b>	Ballykealey Lane, Ballon, Co. Carlow.
<b>Planning Authority</b>	Carlow County Council.
<b>Planning Authority Reg. Ref.</b>	19476
<b>Applicant</b>	Patrick O'Brien
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant outline permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Brendan Hogan
<b>Observers</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> of December 2020
<b>Inspector</b>	Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The subject site with a stated area of 0.197 hectares is located within the village of Ballon Co. Carlow. Ballon is situated 19m to the south-east of Carlow town on the N80 National Secondary Road.
- 1.2. The site is located on Ballykealy Lane which is accessed off the N80 to the east. It has frontage of 27m onto Ballykealy Lane and the site has a depth of circa 110m. The boundary with Ballykealy Lane is formed by a wooden post fence. The site which is grassed is served by an existing gated access.
- 1.3. The Forge Meadow residential estate lies immediately to the east. It contains a scheme of circa 39 no. detached dwellings. There is a detached two-storey house located to the west the site the boundary between the sites is formed by a wooden post fence.
- 1.4. There are a further 7 no. dwellings to the west of the site along Ballykealy Lane. Ballykealy House and its grounds are situated to the northern side of Ballykealy Lane.

## **2.0 Proposed Development**

- 2.1. Outline permission is sought for the construction of a dwelling and on-site waste water treatment system.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Outline permission was granted subject to 10 no. conditions.

### **3.2. Planning Authority Report**

#### **3.2.1. Planning Reports**

Further information was sought in relation to the following;

1. The applicant should consider an alternative single storey or dormer type design and to reposition the dwelling further north to have a similar building line to the existing dwelling on the west.
2. The location and type of the proposed wastewater treatment system and associated polishing filter may need to be reconsidered. Careful consideration must be given to the location of any proposed treatment system and polishing filter within the flood zone to the south of the site.
3. The applicant is requested to obtain permission from the owner of the laneway to lay a water pipe from the public road. Evidence of this permission shall be submitted in writing to the Planning Authority as part of the further information request.
4. A submission has been received regarding the proposed development and you are invited to comment on the contents of same.

Clarification of further information was sought in relation to the following;

1. Provide revised plans detailing;
  - (a) A revised site suitability report for the proposed sand polishing filter.
  - (b) Confirm the proposed P.E. loading of the sand polishing filter.
  - (c) The proposed location of the bored well is located within a flood zone. Relocate the proposed well or obtain permission from the owner of the laneway to lay a water pipe from the public road.
2. An additional submission has been received in response to the further information received, the applicant is invited to comment on the submission.

Planning Report dated 11/8/2020 – Following the submission of a response to the clarification of further information the Planning Authority were satisfied with the details provided and granted outline permission.

### 3.2.2. Other Technical Reports

Municipal District Office – No objection.

Environment – Grant of permission recommended subject to conditions.

Fire Authority – No objection.

Transportation – No objection.

Water Services – No public water mains on the laneway adjacent to the site. The applicant would require permission from the owner of the lane to lay a water pipe from the public road for approximately 200m should they propose to connect to the public water mains.

### **3.3. Prescribed Bodies**

Irish Water – there is no public water mains on the laneway adjacent to the site. If the applicant is proposing to connect to the public water mains they would require permission from the owner of the lane to lay a water pipe from the public road for approximately 200m should they propose to connect to the public water mains.

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority received one submission/objection to the application. The issues raised are similar to those set out in the appeal.

## **4.0 Planning History**

- None on site

## **5.0 Policy Context**

### **5.1. Carlow County Development Plan 2015 – 2021**

- 5.1.1. Chapter Two of the Plan refers to – Development Strategy
- 5.1.2. Ballon is designated a Level 3 Settlement – Small Town
- 5.1.3. Under the provisions of Appendix 11 of the Development Plan, which indicates Settlement Development Boundaries the site lies within the Development Boundary of Ballon.
- 5.1.4. Chapter 11 of the Plan refers to – Design and Development Standards
- 5.1.5. Section 11.3 refers to Residential Development Standards.

## 5.2. Natural Heritage Designations

The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Slaney River Valley (Site Code: 000781), is located approximately 3.4km to the east of the application site.
- The River Barrow and River Nore Special Area of Conservation (Site Code: 002162), is located approximately 12.3km to the west of the application site.

## 5.3. Environmental Impact Assessment

- 5.3.1. Having regard to the nature and scale the development which consists of single house in a rural 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

A third party appeal was submitted by Brendan Hogan. The issues raised are as follows;

- It is considered that the location of the proposed dwelling would result in the loss of light to the appellant's home. The appellant refers specifically to the potential loss of light to the living room of his property located in the eastern gable.
- It is submitted that the proposed dwelling would appear visually obtrusive and that it would cause overlooking of the appellant's ground floor living accommodation and patio area.

- The narrowness and geometry of the site is noted by the appellant and they consider that the dwelling would be located in close proximity of the site boundaries and would constitute over development.
- It is contended that minimum sightlines of 70m to the east and west at the proposed entrance cannot be achieved.
- The appellant stated that the site boundaries are inconclusive and has queried whether the applicant has ownership of the site.
- Only a preliminary front elevation drawing of a dormer style dwelling has been submitted by the applicant. The appellant considers in the absence of further drawings, that potential impacts of the proposed development are not clear.
- It is contended that the proposed development would be inconsistent with the provisions of the Ballon Local Area Plan which designates Ballykealey Lane as a low-density residential area.
- The applicant has not demonstrated that the design of the dwelling would be compatible with the vernacular of the local area in terms of form, size, style and fenestration.
- A separation distance of 10.5m is proposed between the proposed dwelling and the appellant's dwelling. The appellant states that a separation distance of 22m should be provided between first floor windows.
- The revised drawings indicate a separation distance of 2.7m from the polishing filter to the site boundary. A minimum distance of 3m is required in the EPA's Code of Practice on Wastewater Treatment for Single Houses. The separation distance between the polishing filter and the dwelling and septic tank is not indicated on the plans.
- The Revised Site Plan does not indicate a separation distance of 30m from the proposed new bored well to the effluent treatment system. The Code of Practice on Waste Water Treatment and Disposal Systems provides for a separation distance of 30m for down gradient domestic wells or where the flow direction is unknown.
- The construction of the dwelling could result in water egress onto the appellant's site. In particular in the area of the east of the dwelling.



- The proposal would result in an increase in traffic on the laneway. It is noted that traffic has increased with the reopening of Ballykealey Manor Hotel. The appellant has raised concern at the proposed sightline provision at the vehicular entrance.

## 6.2. Applicant Response

- None received.

## 6.3. Planning Authority Response

- The principle of a dwelling on the site has been assessed pursuant to outline permission: PL19/476.
- Having regard to point no. 8 and no. 11 of the appeal, the proposed outline permission has restricted the dwelling to a dormer type dwelling traditional vernacular architecture. Condition no. 3 refers to the design of the dwelling. Details in relation to the overall dimensions and external finishes of the dwelling can be dealt with in the event of a grant of permission consequent.
- The siting of the proposed dwelling was revised through further information to have a similar building line to the neighbouring dwelling. The restriction of dwelling type shall ensure the protection of the residential amenities of the neighbouring dwellings.
- Having regard to point no. 9 of the appeal, the proposed development is located within the settlement boundary of Ballon and therefore is not considered to be speculative development, as the applicant is not required to comply with local housing need criteria as detailed in Section 2.5 of the Carlow County Development Plan 2015-2021.
- In relation to point no. 10 of the appeal, the Carlow County Development Plan 2015-2021 is the overarching document for the County area. The Ballon Local Area Plan 2007 which was prepared for the settlement has lapsed. The proposed development has been assessed with regard to the objectives of the current County Development Plan.

- In relation to point no. 15 of the appeal, the outline permission application was accompanied by a site-specific flood risk assessment report. The report was assessed by the Council's Environment Department who detailed that the recommendations of Section 8 of the report, that surface water shall be disposed of within the site. Condition no. 8 of the decision refers to the event of a grant of permission consequent, the management of surface water will be dealt with by planning condition.
- In relation to point no. 16 of the appeal, the development was assessed by the Council's Municipal District Engineer and the Transportation Department with no objection to the proposed development from a roads and traffic perspective.
- The proposed wastewater treatment system was assessed by the Council's Environment Department and redesigned to a fully pumped sand filter in accordance with the Environment Protection Agency's Code of Practice Serving Single Dwellings, 2009. Condition no. 7 of the decision refers.
- Notwithstanding the contents of the appeal, the position of the Planning Authority remains as per the Planner's Report.

## 7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Design and residential amenity
- Vehicular Access
- Four drainage
- Surface water drainage
- Appropriate Assessment

## 7.1. Design and residential amenity

- 7.1.1. The appellant has expressed concern at the proposed siting and design of the dwelling in terms of potential impact upon residential amenity. It is stated in the appeal that the proposed development would result in shadowing of the appellant's property, would cause overlooking and that it would appear visually obtrusive.
- 7.1.2. As indicated on the site layout plan the proposed dwelling is 3.39m from the western site boundary with the appellant's property and is over 12m from the side of the appellant's dwelling. Having regard to the separation distance provided between the properties I am satisfied that the proposed dwelling would not cause any undue overshadowing of the appellant's property. In relation to the matter of potential overlooking, I note that the proposed dwelling would be sited roughly in line with the appellant's property in terms of the front and rear building lines. The orientation of the proposed dwelling also follows that of the appellant's property. Therefore, having regard to the proposed siting of the dwelling, I am satisfied that it would not result in any undue overlooking of the appellant's property and that it would not appear visually obtrusive.
- 7.1.3. The appeal refers to the concern in respect of the design of the dwelling, that it would not be in accordance with the vernacular of the local area in terms of form, size, style and fenestration. The application is for outline permission. As part of the further information sought the Planning Authority requested that the applicant should consider an alternative single storey or dormer type design. The applicant submitted a proposal for a dormer dwelling with a ridge height of 7.5m. I note the neighbouring properties to the east within Forge Meadows are also detached dormer properties and the properties to the west along Ballykealy Lane are two-storey and detached. The permission issued by the Planning Authority included a condition specifying that the proposed house design at permission consequent stage be restricted to a dormer type dwelling and that the external finishes be mainly of natural stone indigenous to the area, nap plaster or wet dash. It specified that the roof colour shall be blue-black or dark grey with slate or tiles. I consider this condition ensures that the design and external finish of the proposed dwelling will reflect the vernacular architecture of the surrounding residential development. Should the Board decide to grant permission I will recommend the attachment of a similarly worded condition.

7.1.4. The appeal refers to the Ballon Local Area Plan. I note that the Ballon LAP was prepared in 2007 and has now lapsed. The appeal site is located within the settlement boundary of Ballon as indicated in Appendix 11 of the Carlow County Development Plan 2015-2021. Ballon is designated a level 3 settlement, the proposed residential development on site is in accordance with the provisions of the Development Plan.

## 7.2. **Vehicular Access**

7.2.1. The proposed site access is onto Ballykealy Lane a private lane which extends for circa 650m. The lane has a junction with the N80 circa 194m to the east of the site. The appellant raised concern in respect of the availability of satisfactory sightline distances at the proposed vehicular entrance and also the development would generate additional traffic onto the laneway.

7.2.2. As detailed on Drawing No. WTS01-001 'Sightline Survey', sightlines of 90m are proposed to the east and to the west from a new splayed vehicular entrance. The proposed sightline provision is in accordance with the standards set out in Table 2/1 of the 'DMURS Road Geometry Handbook'. In relation to the matter of the generation of traffic on the laneway, the proposal a single dwelling represents a very limited level of additional traffic which can be accommodated.

7.2.3. In considering the suitability of the proposed vehicular access I would have regard to the report by the Local Authority Road's Engineer, and a visual observation of the local area. The Road's Engineer in his report states that they have no objection to the proposal.

7.2.4. Overall, I would consider that the proposed development would be acceptable in terms of traffic and access considerations and would not give rise to a traffic hazard.

## 7.3. **Foul Drainage**

7.3.1. It is proposed that the dwelling will be served by a 6 p.e. packaged treatment plant, a soil polishing filter and a bored well. The appellant raised concerns in respect of the distances provided between the polishing filter and the boundary, the distance between the polishing filter and the dwelling and septic tank and also the separation distance between the proposed new bored well and the effluent treatment system.

- 7.3.2. It is proposed to locate the treatment plant circa 7.4m to the north and the soil polishing filter is located on the layout plan 10m to the north of the dwelling. Regarding water supply, a new bored well is proposed. Table 6.1 of the EPA Manual – Treatment Systems for Single Houses sets out the minimum separation distances, the minimum distance from a watercourse or stream to a percolation area is stated as 10m and the minimum distance from a road to a percolation area is stated as 4m and a minimum distance of 3m is required between the treatment system and percolation area to the site boundary. I note as indicated on Drawing no: WTS01-001 that a separation distance of 3.36m is provided to the site boundary from the percolation area. There is a watercourse circa 85m down gradient of the site. A separation distance of 19m up gradient is provided between the proposed bored well and the percolation area.
- 7.3.3. The site suitability assessment indicates that a T value of 33 was recorded on site. A T value of greater than or equal to 3 and less than or equal to 50, means that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to groundwater. P tests were also carried out and a P value of 13.81 was recorded. Table 6.3 of the EPA Manual advises that where the P value is greater than 3 and less than 75 then the site is suitable for a secondary treatment system with polishing filter at ground surface or overground.
- 7.3.4. It is proposed to construct a pressurised sand polishing filter of 12.5sq m from imported permeable soil. It is proposed to discharge the treated effluent to ground water.
- 7.3.5. The Environmental Protection Agency Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses 2010 provides guidance on the provision of wastewater treatment and disposal systems for new single houses. Annex B of the publication refers to Groundwater Protection Response. It is stated that when choosing a site consideration should be had to any nearby groundwater sources and the vulnerability of the underlying groundwater. The Code of Practice sets out that the risk from onsite wastewater treatment systems is mainly influenced by its proximity to a groundwater source, the value of the groundwater resource and the depth of the water table.

- 7.3.6. The site is located within an area classified by GSI as having a poorly productive groundwater aquifer except for local zones, however the vulnerability rating of the aquifer is high. The groundwater protection response is R1. As per the EPA manual, in a R1 protection zone, on site effluent treatment would be acceptable subject to normal good practice.
- 7.3.7. The Report of the Environment Section dated 11<sup>th</sup> of August 2020, considers the proposal acceptable. Having regard to the details set out above I would consider that the waste water treatment proposals are acceptable.

#### **7.4. Surface Water drainage**

- 7.4.1. The appeal refers to the matter of surface water drainage and raises concerns in respect of potential egress of water. A site specific flood risk assessment report prepared by IE Consulting was submitted with the application. As detailed in the report in the context of 'The Planning System and Flood Risk Management Guidelines' the site falls within Flood Zone 'C' and it is therefore considered appropriate from a flood risk perspective. It is recommended in the report that the dwelling be constructed with a finished floor level at a minimum of 0.3m above the existing ground level of 77.0m OD. It is concluded in the report that the overall flood risk to and from the site is considered low and that the development of the site would not result in an adverse impact to the hydrological regime of the area.
- 7.4.2. The Planning Authority in response to this matter noted that the Council's Environment Department were satisfied with the details contained in the site specific flood risk assessment report and proposals that surface water shall be disposed of within the site to soakpits. Accordingly, subject to surface water generated on the site within the development being discharged to soak pits on site, I am satisfied that the proposal it will not result in the egress of water.

#### **7.5. Appropriate Assessment**

- 7.5.1. 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. 000781 and European Site No. 002162, or any other European sites, 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**

8.1. I recommend a grant of permission.

## **9.0 Reasons and Considerations**

9.1.1. Having regard to the nature of the proposed development, to the pattern of existing development in the area, to the location of the as set out under the current Carlow County Development Plan, 2015 – 2021, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, and would not conflict with the objectives of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The plans and particulars to be submitted by way of a separate application for permission consequent shall include the following:
  - (a) a comprehensive site survey, to a scale of not less than 1:500, including contours at intervals of 0.5 metres, showing all existing boundaries and other features;
  - (b) a site layout plan to a scale of not less than 1:500 showing the layout of the proposed house and driveway;
  - (c) the proposed finished ground floor levels of the house by reference to existing site levels, finished ground floor and roof levels of all neighbouring houses, and the road level at the proposed entrance;
  - (d) proposals for the landscaping of the site; and
  - (e) full details of the proposed entrance to the public road, including any walls or railings.

**Reason:** To enable the application for permission consequent to be fully assessed.

2.
  - (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 21<sup>st</sup> day of July, 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.



(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

3. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

4.

(a) The design of the dwelling shall be restricted to a dormer type dwelling only as submitted to the Planning Authority on the 17<sup>th</sup> day of June 2020 and comprise of traditional vernacular architecture.

(b) The external wall finishes of the proposed house shall consist mainly of natural stone indigenous to the area, nap plaster or wet dash. Roof colour shall be blue-black or dark grey, using slate or tiles. Full details of the finishes shall be submitted with the application at permission consequent stage.

**Reason:** In the interest of visual amenity.

5. All service cables associated with the proposed development (including electrical, television, telephone and broadband) shall be run underground within the site.

**Reason:** In the interest of visual amenity.

6. At permission consequent stage, the developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning

authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a Condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Siobhan Carroll  
Planning Inspector

11<sup>th</sup> of March 2021