



An
Bord
Pleanála

Inspector's Report ABP-308152-20

Development	Construction of a dwelling house, garage, installation of septic tank and percolation area and all associated site works
Location	Ballinagar, Tullamore, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	20/175
Applicant(s)	Glen & Triona Mahon
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Caroline Tyrrell & Michael Betson
Observer(s)	None
Date of Site Inspection	8th of January 2021
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.37 hectares, and it is located approximately 70 metres west of the village boundary of Ballinagar. The site is located on the northern side of a local county road, the L-2025-1, and comprises agricultural lands in pasture. To the north and west of the site are agricultural lands, to the south is the county road and to the east is a dormer dwelling. The 50/80km/h speed control zone is located along the site frontage.
- 1.2. The southern boundary comprises a 1.8-metre-tall mature hedgerow, to the east is a wire fence with a laurel hedge on the neighbouring third part lands and the site is open to the field along its northern and western boundaries. The site is rectangular in shape and has no features of note.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of an L-shaped dwelling, a single storey element parallel with the public road and a two-storey element set back behind and perpendicular to the single storey element, installation of a septic tank and percolation area and associated site works. The site would be accessed via a new domestic entrance off the local county road, to the south
- 2.2. The proposed dwelling would have a gross floor area of 247 square metres (sq. m.) and a maximum ridge height of 6.9 metres.

3.0 Planning Authority Decision

- 3.1. Offaly County Council granted planning permission for the proposed development subject to thirteen conditions. The following is a summary of what are considered to be the pertinent conditions:

Condition number 2; Occupancy clause.

Condition number 3: External finishes.

Condition number 5: landscaping.

Condition number 7: Connect to Group Water Scheme.

Condition number9: Installation and maintenance of septic tank and percolation area.

Condition number 13: Development Contributions.

3.1.1. Planning Authority Reports

Planning Report:

Local Needs Policy SSP 18 applies to the proposal. The Planning Authority deemed that the applicants had demonstrated compliance with the requirements of SSP-18, as required under the Rural Housing Policy. A grant of planning permission was recommended.

3.2. Other Technical Reports

Environment & Water Services Department: No objection, subject to conditions.

Area Engineer: No objection, subject to conditions.

3.3. Prescribed Bodies

No comments received.

3.4. Third Party Observations

One received. The submission raises similar issues to those raised within the appeal submission.

4.0 Planning History

I am not aware of any planning history pertaining to the appeal site.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Offaly Development Plan 2014-2020

Section 1.15.6-Housing in the 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.

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

Number of houses located along 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?

5.1.2. 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 wastewater 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.

5.1.3. Rural Housing Policy-Local Need

SSP-18 It is the policy of the Council 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 an 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.

Category 2: Persons working fulltime or part-time in rural areas.

Category 3: Exceptional Health Circumstances.

5.2. National Policy

5.2.1. Sustainable Rural Housing Guidelines DOEHLG 2005.

The Guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those in proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.2.2. National Planning Framework

Policy Objective 19 is to: '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 the viability of smaller towns and rural settlements.

5.3. Natural Heritage Designations

None relevant.

5.4. Environmental Impact Assessment - Preliminary Examination

Having regard to the limited nature and scale of the proposed development and 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been submitted by the residents of the dwelling immediately east of the appeal site, Caroline Tyrrell and Michael Betson. The main issues raised within the submission can be summarised as follows:

- The two-storey element with its two overhead full height windows would overlook the appellants property and adversely impact upon privacy within their home and garden areas and have a detrimental impact upon their living areas.
- No property in this vicinity has been permitted two storey double height windows within the last 15-20 years.
- The proposed development is less than the required 22 metres from their property.

6.2. Planning Authority Response

The Planning Authority stated that it had noted and considered to content of the third-party appeal submission and had nothing further to add to the Planner's report.

6.3. First party response to third party appeal submission

- The proposed storey and a half return would be 21 metres from the nearest part of the single storey sunroom on the western side of the neighbouring dwelling.
- The development management standard set out within the Offaly County Development Plan requires a 22-metre separation distance between opposing first floor windows and six metres separation from opposing side windows.
- Given the separation distances proposed, and the location of the proposed domestic garage between the dwellings and the existing mature hedgerow boundary dividing the properties, adequate privacy would be afforded to both parties.
- The applicants have stated that they would be willing to move their dwelling further west in order to achieve a 22-metre separation distance if the Board deem appropriate.
- Images of storey and a half and two storey dwellings in the vicinity of the appeal site have been submitted.

7.0 Assessment

7.1. The main issues in this appeal relate to impact upon residential amenity. Compliance with the Offaly Rural Housing Policy will also be assessed. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The proposals in terms of dwelling design, access and servicing are considered satisfactory. The main issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy.
- Residential Amenity
- Appropriate Assessment.

7.2. Compliance with Rural Housing Policy

7.2.1. The proposed development would comprise the development of a part single storey and part storey and a half 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 Ballinagar. "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".

- 7.2.2. Policy SSP-18 of the Development Plan aims to prevent urban sprawl and retain the open and rural character of rural areas and the protection / enhancement of biodiversity of those lands that lie within it.
- 7.2.3. The Planning Authority considered that the development would be in accordance with the Development Plan Policy SSP-18, which requires the applicant to demonstrate a rural housing need based on their social/economic links to a particular rural area. They must demonstrate that they comply with one of the categories (1) to (3) set out within the Development Plan. Based on the limited amount of documentation submitted in support of their rural housing need, I am not satisfied that the first party have demonstrated social/economic links to this rural area or that either of them have demonstrated that they are originally from this rural area, or originally from a rural area within 8 kilometres of the site. In my view, therefore, they have not demonstrated compliance with category (1) of the Plan. I am not satisfied that the applicants would comply with category (2) of the policy either, given that they have not demonstrated a functional need by virtue of their employment to reside in the rural area. Neither have they documented any medical circumstances that would require them to reside in a rural area, as required under category (3) of the policy.
- 7.2.4. The Sustainable Rural Housing Guidelines defines rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a genuine housing need may apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be

based on the demonstrable economic or social need to live in the rural area and should have regard to the viability of smaller towns and rural settlements.

- 7.2.5. The appeal site forms part of a larger field. It is stated that these lands would be purchased from a third-party. The overall site does not relate to any agricultural landholding belonging to the first party or their immediate families. Information submitted in support of the application states that the first party wish to return to Ireland, having resided in Australia since 2010.
- 7.2.6. Based on the sparse documentation submitted with the application in terms of local housing need, it is considered that the first party have not demonstrated a site-specific rural housing need based on their specific economic or social links to reside in this rural area, as required under Policy Objective SSP-18 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework.
- 7.2.7. In the absence of an identified locally based, site specific economic or social need to live in the area, it is considered that the proposed development would contribute to the development of random rural housing in the area, exacerbate the existing pattern of ribbon development and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of the adjacent urban settlements of Ballinagar and Tullamore.
- 7.2.8. I am advising, that as this represents a new issue, not raised by any of the parties to this appeal, under Section 137 (2) of the Planning and Development Act 2000 (as amended), the Board shall give notice in writing to each of the parties and to each of the persons who have made submissions or observations in relation to the appeal or referral of this new issue.

7.3. Residential Amenity

- 7.3.1. In terms of overlooking and loss of privacy, it is considered that having regard to the separation distance between the proposed dwelling and the existing dwelling, being approximately 21 metres at the nearest point and given the location of the proposed

domestic garage between the two dwellings and the existing mature boundary hedging between the two properties, the proposal would not adversely impact upon the residential amenities of the neighbouring residential property to the east by reason of loss of privacy and/or overlooking.

7.4. Appropriate Assessment

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, 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.

8.0 Recommendation

I recommend that planning permission be refused for the following reason:

9.0 Reasons and Considerations

The subject site is located within a 'rural area under pressure for rural housing, as identified in the Offaly County Development Plan 2014. Furthermore, the site is located in an area that is designated as under urban influence in the Sustainable Rural Housing Guidelines and in the National Planning Framework, where National Policy Objective 19 aims 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 applicant has demonstrated a rural housing need to live in this rural area as required under policy objective SSP-18 of the Development Plan. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Offaly County Development Plan, 2014 or in national policy for a house at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Note: This represents a new issue in the appeal not raised by any of the parties to this appeal. Under Section 137 (2) of the Planning and Development Act 2000 (as

amended), the Board shall give notice in writing to each of the parties and to each of the persons who have made submissions or observations in relation to the appeal or referral of this new issue.

Fergal Ó Bric

Planning Inspectorate

4th February 2021