



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308631-20

---

<b>Development</b>	Erection of self-contained dormer style detached family accommodation unit on the site of an existing house.
<b>Location</b>	Lagan, Belturbet , Co Cavan
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	20358
<b>Applicant(s)</b>	William and Johnny Crumlish
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal of Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	William and Johnny Crumlish
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> of February 2021
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

- 1.1. The site is located within the townland of Lagan, c. 3.2kms north west of the town of Belturbet. The site is situated between the N3 to the east and the Local Primary Road, the LP-1506-0 to the west. The Woodford River and the border with Northern Ireland are within relative proximity to the north.
- 1.2. There is an existing detached bungalow on the site, owned by one of the applicants. The entrance which is to be shared with the proposed dwelling is at the northern corner of the site onto the local Belturbet to Ballyconnell Road.
- 1.3. There is a field gate to the adjoining lands outside the site to the north that is accessed via the driveway. There is also a sizable garage structure adjacent to the driveway to the north of the existing house.
- 1.4. The site is not very visible from the roads either side in view of dense hedgerows along the site boundaries. There is a considerable amount of one-off housing visible in the vicinity.

## 2.0 Proposed Development

- 2.1. This is for the Erection of a self-contained dormer style detached family accommodation unit on the site of an existing dwellinghouse together with the relocation and upgrading of the existing wastewater treatment facilities and associated siteworks.
- 2.2. Documents submitted include the following:
  - Drawings including a Site Layout Plan, Floor Plans, Sections and Elevations;
  - A Soil Characterisation and Site Suitability Assessment Report by Traynor Environmental Ltd;
  - A letter from the applicant to Cavan County Council providing a rationale for the proposed development.
  - A Rural Housing Application Form.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 14<sup>th</sup> of October 2020, Cavan County Council refused permission for the proposed development for 3no. reasons for in summary - lack of demonstrated local housing need in compliance with rural housing policies; concerns that the proposed wwts proposals would be prejudicial to public health; this proposal for 2 houses on the site would be in material contravention of Objective RHO3 and would lead to an over concentration of effluent treatment systems and undesirable planning precedent; the proposal would be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### Planner's Report

This has regard to the locational context of the site, planning history and policy, to the interdepartmental reports and submissions made. Their Assessment includes the following:

- The applicant would not fulfil the rural housing need for Stronger Rural Areas as stated in the Cavan CDP 2014-2020.
- They consider the design and layout of the house to be acceptable but recommend some modifications to the dormer windows and to the front porch.
- They note the report from the Environment Section regarding the proposed pwts and are concerned that a second dwelling on this site would result in an over concentration of effluent treatment systems and set an undesirable precedent.
- They note that the proposal would result in an intensification of the use of the existing vehicular access. They consider that the wayleave issue raised is a matter for the landowners to settle which is outside the remit of the planning application.

- Having regard to the nature and scale of the proposed development and the distance to these Natura 2000 sites they consider an AA is not required for this development.
- They conclude that in the absence of a Site Suitability Report that the proposed development would potentially be prejudicial to public health. Also, that the applicant has not adequately demonstrated rural housing need and legal entitlement to the land. They recommend refusal for 3no. reasons.

### 3.3. Other Technical Reports

#### Environment Section

- They have concerns that the percolation tests carried out for the proposed wastewater treatment system indicated poor ground conditions for discharge. Also, that there would be only one system to serve the existing and proposed houses and the proposal would set an undesirable precedent.

### 3.4. Prescribed Bodies

#### Inland Fisheries

- They noted the need for the installation of a wwts in accordance with the EPA Code of Practice: 'Wastewater Treatment Systems for Single Houses'.
- Watercourses within the property should be protected in terms of water quality, topography and habitat.
- Systems should be put in place during construction in accordance with the IF publication: 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites.'
- Any replanting should involve the use of native species to maintain biodiversity.

### 3.5. Third Party Observations

A Submission has been received from the adjoining landowners (former owners of the site). Their concerns are about the impact of the entrance to the subject site on a

wayleave to order to gain access to their lands. These are considered in the Planner's Report and noted in the Assessment below.

## 4.0 Planning History

The Planner's Report notes the following Planning History where permission was granted by the Council subject to conditions:

- Reg.Ref. 99/368 – P.O'Reilly – erect 2 dwellinghouses, effluent treatment systems, entrances, service road and associated site works.
- Reg.Ref. 01/1606 – Billy Crumlish – erect 2 dwellinghouses with effluent treatment systems, entrances, service road and associated site works.
- Reg.Ref. 03/1851 – Billy Crumlish – change of house type from previous approval ref. no. 01/1606 to 2no. dwellings.

## 5.0 Policy Context

### 5.1. National Planning Framework – Project Ireland 2040

This refers to the growth and development of rural areas and the role of the rural town as a catalyst for this. It is recognised that the Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time renewing and regenerating rural towns and avoiding ribbon and over-spill development from urban areas into the countryside and protecting environmental qualities. Objectives 18 and 19 refer.

### 5.2. Sustainable Rural Housing Guidelines for Planning Authorities, 2005

These guidelines seek to provide for the housing requirements of people who are part of the rural community in all rural areas, including those under strong urban based pressures. The principles set out in the guidelines also require that new houses in rural areas be sited and designed to integrate well with their physical surroundings and generally be compatible with the protection of water quality, the

provision of a safe means of access in relation to road and public safety and the conservation of sensitive areas.

### 5.3. **Cavan County Development Plan 2014-2020**

This is the pertinent plan and contains several policies and objectives relevant to the proposed development. These include:

Table 2.14 illustrates the Settlement Hierarchy. Belturbet is listed as Tier 3 (medium sized town).

#### *Rural Housing*

Section 2.7 provides the Rural Settlement Strategy

The goal is to respect the long tradition of people living in rural areas in County Cavan and promote sustainable rural settlements as a key component in achieving strong vibrant rural communities.

Section 2.7.4 provides Definitions – Rural and Urban Generated Housing.

Rural Generated housing comprises categories that constitute a rural generated housing need:

A - Persons who are an intrinsic part of the rural community.

Broadly this includes people who spent a substantial part of their lives living in the rural area as members of the established rural community and are building their first homes, returning emigrants, persons who need to reside near elderly parents.

B – Persons working full-time or part-time in rural areas.

Persons working full time in farming, forestry, inland water or related occupations as well as part time occupations where the predominant occupation is farming or natural resource related. Persons intrinsically linked to the rural areas.

Reference is also made to Circular SP 5/08 from the DECLG ‘Rural Housing Policies and Local Need Criteria in Development Plans’ where a *bone fide* applicant who may not already live in the area, nor have family connections there or be engaged in a particular employment classified within the local needs criteria, should be give due consideration within the proper planning and sustainable development objectives for

the area subject to a number of specified considerations relative to demonstrated need to live in the rural area.

This includes that an 'Occupancy Clause' is to be attached to these cases regardless of rural area type.

*Policy RHP1: Rural generated housing needs should be accommodated in the locality in which they arise and where the applicant comes within the development plan definition of need, subject to satisfying good planning practice in matters of location, siting, design, access, wastewater disposal and the protection of environmentally sensitive areas and areas of high landscape value.*

Rural Policy Objectives RHO1 – RHO5 apply.

Section 2.7.5 relates to Rural Area Types. For Cavan these are:

- (1) Areas under strong urban influence.
- (2) Stronger rural areas.
- (3) Structurally weak areas.

Appendix 5 illustrates the general location of the different types of rural areas.

The site is located within a Stronger Rural Area. The Key Objective seeks:

*To facilitate rural generated housing needs as defined in section 2.8.2, subject to good planning practice in matters of location, siting, design and the protection of environmentally sensitive areas and areas of high landscape value, whilst directing urban generated housing need to areas identified for housing in the adjoining towns and villages.*

RHO8 seeks: *To cater for the housing requirements of members of the local rural community who have a rural generated housing need.*

RHO9: *Urban generated housing development shall be directed into towns and villages.*

RHO10: *To apply an occupancy condition of a minimum of 7 years.*

#### Development Management

Section 10.14 provides the 'Development Management Standards' for rural one-off dwellings.

#### **5.4. Code of Practice Wastewater Treatment Disposal Systems serving Single Houses**

This document (2009) by the EPA relevant to single houses (p.e <10) and replaces SR6:1991 and the EPA Manual 2000 for 'Treatment Systems for Single Houses'. The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on-site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

#### **5.5. EU Water Framework Directive**

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

#### **5.6. Natural Heritage Designations**

The site is located within the SAC/SPA buffer zone for the Lough Oughter (c. 1.3kms) and Associated Loughs and the SPA Buffer Zone of Natura 2000 sites.

#### **5.7. EIA Screening**

Having regard to the nature and scale of the proposed development (a single dwelling) 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

Philip T. Brady Architects has submitted a First Party Appeal on behalf of the Applicants. The Grounds of Appeal are summarised as follows:

- The Planning Authority failed to give sufficient weight or consideration to the planning history of the site that clearly establishes that it was suitable for development.
- They note details of the construction of the Belturbet by-pass and realignment of the N3 in the 1990's resulted in cutting off the relevant site from the original landholding (submission by Paddy and Anne O'Reilly).
- The consequent realignment of the L1506 and its junction with the N3 left an effective island of property between two roads.
- The site was used as builder's compound by the roadworks contractor for 2 years resulting in the land being left as a brownfield site.
- They provide details of the planning history of the site and note that permission for 2 houses was originally granted on this site, but that only one house was constructed.
- Three separate planning permissions between 1999-2003 deemed this site satisfactory for the siting and design of 2no. houses. It is submitted that due recognition was not given to this planning history.
- William Crumlish has recently furnished his completed house and it was always his intension to use it as his residence when economic circumstances permitted.
- His son Johnny Crumlish has set up a building services company specialising in roof slating, which operates in both Northern Ireland and the Republic. The site location is ideal for the nature of his business.
- They submit that Johnny Crumlish has demonstrated a need for housing that is reasonable and in accordance with the Sustainable Rural Housing Guidelines.

- Regard should be given to Circular SP 5/08 from the DECLG 'Rural Housing Policies and Local Needs Criteria in Development Plans'. The applicants have returned to Ireland and are the type of returning emigrants that the government wishes to encourage and foster.
- It is unreasonable to state that the proposed development would contravene the Monaghan CDP.
- The Site Suitability Assessment Report has proposed that a purpose-built sand polishing filter should be constructed to overcome the poor existing soil conditions and they provide details of the site.
- They consider that these soil conditions are resultant on its history as a brownfield site used for construction purposes by the L.A.
- They consider it is suitable that the proposed development has the capacity to facilitate the existing house and the proposed additional accommodation.
- The principle of the proposed development is to obtain permission for an independent living unit and is considered to be an extension of the existing property. This will be an integrated family unit with shared entrance, driveway, services and amenities.
- The development of a second dwellinghouse on the site that would be entirely separate and self-contained was not pursued in the light of the planning history. They submit this application is sustainable.
- They refer to a relatively recent application (Ref.No. 16/189) where the Local Authority granted permission for additional accommodation in somewhat similar circumstances with shared services and wastewater treatment system.
- They include a copy of the Applicant's Rural housing Application and accompanying letter of justification of housing need.

## 6.2. Planning Authority Response

They have regard to the Grounds of Appeal and their response in summary includes the following:

- They consider that the Planning History (Ref. No's 01/1606 & 03/1851) which expired on the 6<sup>th</sup> of March 2007 are no longer relevant in this case. The P.A made the assessment of the subject application *de novo* and in the context of the current Cavan CDP (2014-2020) which is in force and effect at this time.
- They note that no new information has been submitted with the appeal documentation relative to Rural Housing Need and refer to the original assessment of the P.A.
- They have regard to the documentation submitted relative to the Site Suitability Assessment and they do not support the development of multiple dwellings being serviced by Wastewater Treatment and Disposal Systems Serving Single Houses, which, if approved, would set an undesirable planning precedent for the development of houses in the rural area.
- They consider that this proposal for a 3 bedroomed house is incorrectly described as a 'self-contained detached family accommodation'. This proposal is for a second dwelling house on the site which is contrary to the Planning advice issued in the original pre-planning consultation.
- The PA requests the Board to uphold their decision.

## 7.0 Assessment

### 7.1. Rural Settlement Strategy – Local Needs

- 7.1.1. It is noted that the proposal has been assessed by the Council with regard to the local needs criteria under Section 2.7 of the Cavan County Development Plan 2014-2020, and to Policy RHP1 which provides the Rural Development Strategy relative to rural generated housing needs. The site is in the unserviced rural area and is c. 3kms to the north of Belturbet, described as a Tier 3 medium sized town in the Settlement Hierarchy. Regard is had to Section 2.7.4 which provides definitions – Rural and Urban Generated Housing. Section 2.7.5 notes the Rural Area Types and it is considered that the site is located within a *Stronger Rural Area*. This seeks to cater for the housing requirements of members of the local rural community who have a rural generated housing need subject to good planning practice in matters of

location, siting, design and the protection of the environment and provides that urban housing development be directed into towns and villages.

- 7.1.2. Regard is also had to the Sustainable Rural Housing Guidelines 2005 where the strategy indicates that there should be a presumption against urban-generated one-off housing in rural areas adjacent to towns. It is put forward that if the applicant has a proven local need and there should not be a blanket ban on genuine applicants in the area.
- 7.1.3. Details of the Applicant's local need have been submitted. This notes that the family home at Lagan Belturbet was completed in 2008 and has remained unoccupied until the last six months. The applicant has been living and working in London for in excess of five years and he and his father moved back to Ireland in 2019. He now has his own business in the construction sector that services the whole of Ireland as well as locally based in Cavan, Fermanagh, Longford and Meath. He considers Belturbet the ideal location from which to operate his business. It is provided that this proposal is to build a detached house that will integrate with the existing dwelling house (owned) by the applicant's father sharing access, services and amenities all within the curtilage of the single residential site.
- 7.1.4. It is noted that the First Party Appeal is concerned that the history of permissions relevant to the subject site (as noted in the Planning History Section above) have not been taken into account in the Council's consideration of the proposed development. This provides that originally 2 houses were granted permission on the site but the second was never constructed (Reg.Ref. 03/1851 refers). However, it must be noted as pointed out by the Planning Authority that this permission has since expired and this application is being considered *de novo* under current policies and objectives relative to restrictions on rural housing. The objective of the current Cavan CDP (2014-2020) being that urban generated housing should be accommodated in the local settlements. There is already an existing house on the site owned by William Crumlish. Rather than construct another house on the site, there may be possibilities to extend so that there would not be an additional dwelling on this restricted site.
- 7.1.5. They refer to Circular SP 5/08 from the DECLG 'Rural Housing Policies and Local Needs Criteria in Development Plans and provide that the applicants should as returning emigrants be given due consideration with the proper planning and

sustainable objectives of the area. However, it has not been demonstrated in the documentation submitted that the applicants have established or intrinsic links to this rural area or are members of the local community involved in any rurally based activities. In this case it is also noted that the applicants are not building their first house, in that they own the existing house on the site.

- 7.1.6. Regard is also had to National Policy Objective 19 of Project Ireland 2040. This provides: *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 the 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.*
- 7.1.7. In this case I would consider that the applicants have not demonstrated that they have a particular rural generated need to construct an additional house on this site in the rural area. They already have a house on the site and do not appear to be rurally based. It has not been demonstrated that the applicants comply with the criteria relative to National Policy Objective 19, or to the local needs criteria as specified in Sections 2.7.4 and 2.7.5 and Objective RHO8 of the Cavan CDP 2014-2020.

## 7.2. **Material Contravention**

- 7.2.1. The Council's first reason for refusal includes that the proposed development would materially contravene Section 2.7.4 (Definitions – Rural and Urban Generated Housing) and Section 2.7.5 (Rural Area Types - Stronger Rural Area) of the Cavan CDP 2014-2020. Also, Objective RHO8 which is as follows: *To cater for the housing requirements of members of the local rural community who have a rural housing need.*
- 7.2.2. The Council's third reason for refusal includes that the proposed development would materially contravene Policy RHO3 of the Cavan CDP 2014-2020. This is as follows: *Applications in rural areas shall be for individual dwelling houses only and must be made in the name of the person who is the intended occupier of the dwelling house.* The Planning Authority consider that the development of a second dwelling on the site would result in an overconcentration of effluent treatment systems, would set an

undesirable precedent for similar development of this kind and would be contrary to the proper planning and sustainable development of the area.

- 7.2.3. Section 34(6) of the Planning and Development Act 2000 sets out the procedure under which a planning authority may decide to grant permission for a development which they are concerned would contravene materially the development plan or local area plan. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc., where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.
- 7.2.4. In this instance the proposed development is clearly not of strategic or national importance. The issues relative to the lack of demonstrated local need in accordance with policies and objectives have been noted above. I note that this proposal would allow for an additional dwelling to be constructed on the subject site. It is proposed to share the access with the existing house, which is owned by one of the applicants and to relocate and upgrade the existing wastewater treatment facilities so that both houses would have the same albeit upgraded system. The Environment Section's concerns about this are noted in the appropriate section below. This application will result in two houses, one for each of the applicants on the subject site.
- 7.2.5. Having regard to these issues relative to material contravention, I would not consider that there are conflicting objectives in the Cavan CDP, or that this proposal to facilitate 2no. houses on the one site in the rural area, would correspond to a pattern of development in the area. It would lead to an undesirable precedent for such type of development on a constrained site area and I would consider that it could be said that it would materially conflict with Objectives RHO3 and RH08.

### 7.3. **Design and Layout**

- 7.3.1. The Site Layout Plan shows the proposed detached dormer dwelling centrally located on the site, to the south of the existing dwelling. The g.f.a is given as

243sq.m. The elevations show that the proposed ridge height c. 7m. The floor plans show that it is to provide kitchen/living/dining area, sitting room and one bedroom/study on ground floor level and 2no. bedrooms at first floor dormer level. It is proposed to provide a front porch feature at front and rear. Solar panels are to be provided on the rear elevation. External finishes include stone cladding to front elevation porch, a rough cast render finish and a stone slate roof finish. It is proposed that the apex of the front porch be in line with that of the dormer windows. The rear elevation will also provide a similar type feature, with large window. It is noted that the proposed house type appears similar in design to the existing dormer bungalow on site.

7.3.2. Section 10.14.3 of the Cavan CDP refers to Design and Siting Considerations. This notes that the Council has prepared design guidelines for rural houses and it is the policy of the Council to implement these guidelines through the development management process, the guidelines are included in the CDP Appendices. Policy DMO8 seeks compliance with the 'Design Guide for Single One-off Rural Houses within the Cavan Rural Countryside'. I would consider the proposed design to be acceptable in accordance with these guidelines.

7.3.3. It is noted that the proposed front elevation faces the N3 and the rear elevation the LP-1506-0 Belturbet to Ballyconnell Road. However, in view of set back and dense hedgerows along the site boundaries with the roads on either side the proposed dwelling will not be very visible in the surrounding area. There is a need to retain these hedgerows and to establish a hedgerow along the northern site boundary. If the Board decide to permit, I would recommend, that there be conditions relative to external finishes and landscaping.

#### **7.4. Access and Wayleave issue**

7.4.1. It is proposed to use the existing access onto the LP-1506-0 Belturbet to Ballyconnell Road. This is located in the northern corner of the site. As shown on the Site Layout Plan, this would then provide a set-back gated entrance to a service road to serve both the existing and proposed dwelling. It was noted on the site visit that these works for the access are relatively complete. The development of a second dwelling

on this site will result in an intensification of the residential use and additional traffic accessing the site.

- 7.4.2. It is noted that there is a Submission on file, relative to a concern about impact of the proposed development on their wayleave/right of way from the original owners of the site Patrick & Anne O'Reilly to access their adjacent lands. They are particularly concerned about the recently constructed gate piers adjacent to the farm access. On site I noted that there is a field gate accessed via the driveway of the subject site to the agricultural lands to the north. They provide that the wayleave provides access to lands for farm machinery and cattle lorries beyond the location of the proposed entrance gate and piers. It is noted that it is proposed to use the existing entrance and this wayleave is not shown on the drawings submitted.
- 7.4.3. The grounds of appeal refer to the history of the Belturbet By-pass and realignment of the N3 primary route in the 1990's resulted in the cutting off of the subject site, from the original farm holding in the ownership of Patrick O'Reilly. As a consequence the site was left as an island between two access road. The First Party note that the site was used as a Builder's Compound for two years while the construction of the road was undertaken. This resulted in the site being left brownfield on completion of the works.
- 7.4.4. It is of note that the issue regarding the wayleave has not been raised separately as the subject of a Third Party Appeal or subsequent Observation. The issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

## 7.5. **Suitability of the Site for the Disposal of Effluent**

- 7.5.1. Section 10.14.9 refers to Wastewater Treatment and Disposal for one-off rural houses. This includes Objective DMO18 which provides that all proposals involving



the installation of an on-site wwts must comply with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.< 10) 2009 or any subsequent CoP that supersedes it.

- 7.5.2. Table 6.2 of this EPA Code of Practice provides the minimum depth requirements for on-site systems discharging to ground i.e.1.2m and at the base of polishing filter 0.9m.i.e minimum depth of unsaturated subsoil to bedrock and the water table. Table 6.3 provides an interpretation of percolation test results and “in cases where  $3 < P < 75$  the site may be suitable for a secondary treatment system and polishing filter at ground surface or overground if the soil is classified as Clay...” The ‘T’ and ‘P’ test values given should be within this range.
- 7.5.3. A Soil Characterisation and Site Suitability Assessment Report by Traynor Environmental Ltd has been submitted with the application. This notes that the site is in the area of a Regionally Important Aquifer and the vulnerability is high to low. The groundwater protection response is R2(1). Annex B of the CoP refers to Groundwater Protection Response – Table B.2 ‘Response Matrix for on-site Treatment Systems’ refers. However, the Site Characterisation Form provides that the proposal maybe acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance with CoP). It is provided that the soil type in the area is Gleys (50% of the land area) and as the area is mapped as ‘Moderate Vulnerability’, ground water may be at risk around the site.
- 7.5.4. It was noted that groundwater was encountered in the trial hold of 1.50m BGL (test carried out in June 2020). Winter groundwater was encountered in the trial hole at a depth of 1.0m. Bedrock was not encountered in the trial hole. Percolation ‘T’ Test results provided a modified 137.31min/25mm. This was due to the poor characteristics of the subsoil material. ‘P’ tests were then carried out and the ‘P’ test result was 110.46min/25mm. It was submitted, that this was due to the poor percolation characteristics of the topsoil material. It was concluded that a purpose built sand polishing filter should be constructed to ensure that there is a minimum of 0.30m of suitable percolating material between the base of the lowest part of the sand polishing filter and Groundwater/Bedrock at all times. Details are provided of the distribution pipes to be used. Also, that a gravel distribution layer will be required under the proposed sand filter. It is recommended that an O’Reilly Oakstown Treatment System and sand polishing filter construction is over seen by a suitable

qualified and accredited person. Details of a 12PE O'Reilly Oakstown Treatment System have been submitted.

- 7.5.5. It is proposed to decommission the existing septic tank on the site, which currently serves the single dwelling. The proposed waste water treatment system is to provide for the disposal of effluent from the existing and proposed dwellings. The Council's concerns about this are noted. I would consider that two dwellings using a pwwts suitable for a single dwelling house would not be desirable especially in an area suffers from poor percolation characteristics. Also, that it would set an undesirable precedent and not be in accordance with Objective RHO18 and the EPA Code of Practice: *Wastewater Treatment Systems for Single Houses*.

## 7.6. Screening for Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to 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

- 8.1. I recommend that permission be refused for the reasons and considerations below.

## 9.0 Reasons and Considerations

1. The subject site, given its location to the north of the town of Belturbet is considered to be located within a 'Stronger Rural Area' where there is significant pressure for rural housing as set out in the Sustainable Rural Housing Guidelines and in the National Planning Framework –Project Ireland 2040. In relation to the National Planning Framework, 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

applicants have a demonstrable economic or social need to provide a second dwelling for a family member on the subject site in the unserved rural area. It is, therefore, not considered that the applicants 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, if permitted, be contrary to the Ministerial Guidelines and to National Policy Objective 19 of the National Planning Framework. The proposed development would also be contrary to local planning provisions, in particular Sections 2.7.4 and 2.7.5, to Policy RHP1 and Objectives RHO3 and RHO8 of the Cavan County Development Plan 2014 to 2020 and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the soil conditions and high-water table, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the proposed and existing dwellings can be satisfactorily treated and/or disposed of on site, notwithstanding the proposed use of a single proprietary wastewater treatment system. The proposed development would, therefore set an undesirable precedent, be prejudicial to public health and be contrary to Objective DMO18 of the Cavan County Development Plan 2014-2020.

---

Angela Brereton  
Planning Inspector

3<sup>rd</sup> of March 2021