



An
Bord
Pleanála

Inspector's Report

ABP-309133-21

Development	Construction of house, wastewater treatment unit, boundary fences/walls and driveway
Location	Twyford , Baelin , Athlone, Co Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	207159
Applicant(s)	Aaron Ganley
Type of Application	Outline Permission
Planning Authority Decision	Refuse Outline Permission
Type of Appeal	First Party
Appellant(s)	Aaron Ganley
Observer(s)	None
Date of Site Inspection	1 st of April 2021
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site is located approximately five kilometres east of Athlone Town. The site is located adjacent to the northern periphery of the small settlement of Bealin (or Baylin). The settlement of Baylin comprises of agglomeration of one-off houses set around various intersections in the local road network. The settlement is served by a local national school. The subject site is located to the north of the settlement.
- 1.2. Access to the site is from the L-1427 via a private cul-de-sac which also serves a number of houses. There are two dwellings immediately south of the site and a large shed which is currently the subject of a retention application to the north east (ABP-308966-20 relates). This is set back c.110m from the road boundary and is served by a private access driveway.
- 1.3. The site (area given as 0.514ha) is irregular in shape and extends further in a southerly direction to the rear of the housing constructed to the south. While there are some trees and hedgerows along the site boundaries it has a relatively open vista from the private access road.
- 1.4. The national monument Bealin High Cross is located on high ground on the opposite side of the road.

2.0 Proposed Development

- 2.1. This proposal seeks outline permission, for the Construction of a Dwellinghouse, wastewater treatment unit, boundary fences/walls and driveway all on the subject site (stated area 0.514ha), at Twyford, Bealin, Athlone, Co. Westmeath.
- 2.2. Documentation submitted with the current application includes the following:
 - A Local Need Questionnaire with map and supporting cover letter.
 - A Site Characterisation Form with original photos, supplementary Geological Survey of Ireland Mapping and accreditation.
 - A letter of consent from the Landowner Declan Ganley.
 - A letter from Liam Madden, Architect, providing details relative to the application.

- Drawings including a Site Location Map and Notional Site Layout Map.

3.0 Planning Authority Decision

3.1. Decision

On the 9th of December 2020, Westmeath County Council refused outline permission for the proposed development for the following reason:

1. *The proposed development would lead 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.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the inter-departmental reports. They noted that no submissions were made. Their Assessment included the following:

- They had regard to local needs policies P-LNH1 and P-LHN2 of the Westmeath CDP 2014-2020 and noted that the proposal is located in a Strong Rural Area under significant Urban Influence.
- The application site is located outside the development limits of Baylin Unserviced settlement. Local Needs are therefore applicable.
- They provide that based on the information submitted, it is considered that the applicant meets with policy P-LHN1(5).
- The application site is located within the same landholding which is currently the subject of an active enforcement by WCC ref ENF1503.
- As the application is for outline permission, the design will be assessed at permission consequent stage.

- There is no real likelihood of significant effects on the environment/Natura 2000 sites arising from this development.
- The proposal would create an undesirable precedent for haphazard piecemeal linear development along this cul-de-sac road and would lead to a reduction in the visual and environmental quality of the landscape.
- The proposed development would lead to the encroachment of random development in the rural area and would militate against the efficient provision of services and infrastructure. It would be contrary to the proper planning and sustainable development of the area.

3.3. Other Technical Reports

District Engineer

Their Report included that the applicant is requested to submit the following:

- Proof of right of way ensuring a right of access to the property/site for the applicant across this private laneway along the route of the proposed development.
- A revised site layout drawing detailing sightlines and identifying existing roadside boundary features for the extent of the required sightlines.
- A Site Assessment Report for the proposed wwts in accordance with the provisions of the EPA CoP 'Waste Water Treatment Systems for Single Houses' 2009.

3.4. Prescribed Bodies

Irish Water

They have no objections to the proposed development.

3.5. Third Party Observations

None noted on file.

4.0 Planning History

Subject Site

- Reg.Ref. 19/7250 – Outline Permission refused to Declan Ganley for the Erection of house, proprietary wastewater treatment unit, boundary walls/fencing.

This was subject to a First Party Appeal to the Board (ABP-306726-20 refers) who subsequently refused permission for 2no. reasons. These were in summary:-

Reason no. 1 – The site being located in an “ Area Under Strong Urban Influence” lack of demonstrated local need, being contrary to National Policy Objective 19 of the National Planning Framework, contrary to Rural Housing Policies in the Westmeath County Development Plan, in particular Policy P-LHN2.

Reason no.2 – Would contribute to the encroachment of random development in the rural area and militate against the preservation of the rural environment and the efficient provision of services.

Adjoining site

- 20/7146 – Permission refused by the Council to Declan Ganley for the retention of an agricultural building 417.69sq.m and concrete yard and dungstead.

This is the subject of a concurrent appeal to the Board – Ref. ABP-308966-20 refers.

- 15/7120 – Permission refused by the Council to Declan Ganley for the retention of a constructed shed (425sq.m), a perimeter concrete yard and a partially installed wastewater treatment system and the proposed erection of a dungstead and the completion of a partially installed wastewater system, and all associated groundworks and landscaping.

This was subsequently refused by the Board Ref. PL25A.246083 refers. It is noted that as then shown on the plans, at that time the application also encompassed the area of the subject site.

Referrals

A number of Referrals have been submitted to the Board relative to the issues relating to the shed building to the north and the usage of the site and as to whether or not they constitute development or are exempted development. These include those listed below:

- ABP-303127-18
- ABP-301319-18
- RL3510
- RL3559
- RL3814

Adjoining sites to the south

- Reg.Ref. 07/1139 and Reg.Ref.07/1023 – These refer to the permissions granted separately by the Council for the 2no. houses to the south of the application site. Both have been constructed.

5.0 Policy Context

National Policy

5.1. National Planning Framework – Project Ireland 2040

NPO18 – Supports provision of new homes in small towns and villages.

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 the viability of smaller towns and rural settlements.

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. 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).

5.4. 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.

5.5. Development Plan

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'.

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. Reference is also had to the role of smaller villages and unserviced settlements identified in the 2008-2014 CDP. These settlements, which include Baylin are listed in Appendix 14 of the current CDP.

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.

Policies for Rural Areas under Strong Urban Influence are set out in Section 11.7

Policy P-SRA1 refers.

Section 11.8 refers to 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.

Wastewater Policy and Objectives

P-WST4 – To require that wastewater treatment and disposal systems for new single houses are implemented in accordance with the 2009 EPA Code of Practice Wastewater Treatment for Disposal Systems serving single houses (p.e.<10), or any revision thereof.

5.6. Natural Heritage Designations

The nearest Natura sites is Carn Park Bog SAC 002336 (designated for active raised bogs, degraded raised bogs still capable of natural regeneration) is c. 600m away.

5.7. EIA Screening

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

The first party appeal against the Planning Authority's decision to refuse permission submitted by Liam Madden of Vitruvius Hibernicus, includes the following:

- This notes that the Bealin Unserviced Settlement Development Boundary in the previous Development Plan was altered so that the site and landholding of which it forms a part was excluded from the current DP map.
- Declan Ganley was refused permission as they already own a house c.350m in Bealin.
- Regard is had to local needs relative to housing in proximity which is also outside of the settlement boundary.
- It is submitted that the re-mapping of the subject landholding was executed without justification.
- They note that there is only one reason for refusal. This purports to be grounded on relative Policies in the current DP i.e: P-LHN1 and P-LNH2. Yet the applicant is considered to meet the standards required by these policies.
- They consider that the Council's reason for refusal lacks clarity and is illogical.
- They note the Board's previous reasons for refusal relative to Reg.Ref.19/7250 – Ref. ABP- 306726-20.
- Then the Board found no reason to refuse on the technical details such as drainage, road traffic or vehicular sightlines etc.
- This application is identical in every detail to that previously made, except only for the applicant. Aaron Ganley is the son of Declan Ganley.
- Aaron Ganley meets the local need criteria, and this complies with policy and guidelines.
- His proposal is not a random encroachment into the rural area. It is expressly permitted by Policy P-LNH-1. It does not give rise to piecemeal development.

- The proposal will not militate against the *efficient provision of public services and infrastructure*.
- The cul-de-sac road is privately owned, the water supply is not a public service and the village of Baylin/Bealin (which the site abuts) is an Unserviced Settlement.
- The Board is requested to overturn the Council's decision and grant outline permission, subject to what conditions the Board considers appropriate.

7.0 Assessment

7.1. Regard to Outline Permission

- 7.1.1. This application is for Outline Permission for the proposed development. Section 36, Part III of the Planning and Development Act 2000 (as amended) has regard to the concept of an Outline Permission, and the subsequent need for permission consequent. Section 36(6) provides: *In this section, "outline permission" means permission granted in principle under section 34 for the development of land subject to a subsequent detailed application for permission under that section.*
- 7.1.2. Article 24 of The Planning and Development Regulations 2001 (as amended) provides: *Notwithstanding article 22(2)(d), an outline application shall, in addition to the requirements of article 22(2), be accompanied only by such plans and particulars as are necessary to enable the planning authority to make a decision in relation to the siting, layout or other proposals for development in respect of which a decision is sought.*
- 7.1.3. Regard is also had to the Development Management Guidelines 2007 which provides relative to Conditions at outline permission stage:
- It is particularly important that conditions relating to basic services, significant design criteria, financial contributions, security for completion, road reservations and other such fundamental matters are attached, where appropriate, to outline permissions for housing development. If this is not done, difficulties may arise at the permission consequent stage.*

7.1.4. Permission in principle cannot be granted unless it has been established in the documentation submitted that adequate details have been submitted to make an informed decision and that the proposal is in the interests of proper planning and sustainable development of the area. Further consideration is given to the matters raised, including relative to whether the Council's reason for refusal and the Board's previous reasons for refusal in Ref. ABP-306726-20 have been overcome, in this Assessment below.

7.2. Rural Settlement Strategy – Local Needs

7.2.1. The policy framework for rural housing in areas under strong urban influence, is as is set out in the Sustainable Rural Housing Guidelines, the National Planning Framework and the Westmeath County Development Plan 2014-2020. It is required that local need must be demonstrated, so that one-off housing, which would generate unsustainable demands for infrastructural provision of services and which would create unsustainable travel patterns would be resisted.

7.2.2. National Policy Objective 19 of Project Ireland 2040 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.*

7.2.3. Part 5 of the Westmeath County Development Plan 2008-2014 provides the context and role of 'unserved settlements'. The provision of housing in such unserved settlements is an alternative to housing in the countryside and not an addition. Baylin is one such settlement in the Athlone Area. It includes a Map with indicative markings to show the development limits of the unserved settlement. It is noted that the subject site is just to the north of these indicative markings. Therefore, the site is located outside the unserved settlement in the rural area and local needs policies apply.

7.2.4. Section 11.3.1 of the Westmeath CDP 2014-2020 notes that 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. It notes that 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, which include Baylin, are listed in Appendix 14 of the current plan. The current plan refers to the previous plan and does not include revised mapping relative to these unserviced settlements. The application site is on unzoned lands, located outside and to the north of the development limits of Baylin 'unserviced settlement' area and is in a 'rural area under strong urban influence'.

- 7.2.5. 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. Details of the Applicant's local need have been submitted.
- 7.2.6. The applicant's father, Declan Ganley, has given his permission for his son Aaron Ganley to apply for outline permission on the subject site. It is noted that the site is to be taken off the larger landholding which includes the shed for retention (concurrent application Ref. ABP-308966-20 refers). Regard is had to the Planning History Section above.
- 7.2.7. It is provided that the applicant, Aaron Ganley was born and reared in Bealin and attended the local National School there. Details are given of his family linkages to the Bealin area. It is submitted that Aaron and his family are members of the local community and have long established personal, family, social and economic ties with Bealin. Also, that he does not own a house. The intention is that he would build his own home in the local area and that his parents will remain in their own house.
- 7.2.8. It is noted that this differs from the Board's previous refusal relative to Ref. ABP-306726-20, where Declan Ganley, as the then applicant, did not fulfil the local needs criteria as he already owned a house in the area. Mapping then submitted shows the location of Declan Ganley's current home and the applicant's family home within the development boundaries of the unserviced settlement of Bealin. Mapping submitted with the current application, shows the location of the family home, but does not include the settlement boundary. The First Party notes some discrepancy in the mapping.

- 7.2.9. Section 11.8, of the Westmeath CDP 2014-2020, provides the Local Housing Needs Policies within Strong Rural Areas under Significant Urban Influence. Policy P-LHN1 provides the criteria relative to local need. It is considered that the applicant satisfies P-LHN1 (5) i.e. *Persons who have personal family or economic ties within the area, including returning emigrants.*
- 7.2.10. It is noted that the Board's reason for refusal in Ref. ABP-306726-20 also refers to Policy P-LHN2. This seeks to manage the development of one-off rural housing in conjunction with the Rural Typology Map and Local Need criteria. Reference is had to the need to submit documentary evidence of compliance with the rural housing policy and with local need criteria.
- 7.2.11. I would consider that in view of the change of applicant and the documentation submitted, that the Board's first reason for refusal in Ref. ABP-306726-20, has been overcome in the current application.

7.3. Suitability of Site for Disposal of Waste Water

- 7.3.1. Regard is had to the Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.< 10). 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.
- 7.3.2. A Site Characterisation Form has been submitted with the current application. This notes that the site is within the area of a Locally Important Aquifer and is of high vulnerability. It is provided that surface and ground water as a resource are potential targets as the Groundwater Response is R1. Annex B of the CoP refers to Groundwater Protection Response – Table B.2 'Response Matrix for on-site Treatment Systems' refers. 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).

- 7.3.3. The SCA provides that the site is suitable as per the EPA CoP 2009 and is more than double the size of the adjoining site. Details are given of 'T' tests. It is provided that average 'T' results are 17.8 and 'P' results 20.33. It is proposed to install a 'Packaged Wastewater Treatment Unit and Polishing Filter. The location of this is indicated on the Site Layout Plan submitted. This also shows the location of the wwts of the two houses to the south of the site.
- 7.3.4. The SCA provides that the site is served by the existing Bealin Group Scheme on lands. It also notes that there are 13 houses and a school within 250m of the site. While not specifically mentioned as a reason for refusal in Ref, ABP-306726-20, I would have some concerns about the proliferation of septic tanks/wwts in this unserved rural area. However, I would consider that this is somewhat covered in the Board's second reason for refusal relative to the efficient provision of public services and infrastructure.

7.4. Access

- 7.4.1. As shown on the Site Layout Plan the proposed access from the site is onto the private roadway. The District Engineers Report provides that in order to achieve sightlines onto the private road, that works will be required on lands outside the applicant's control, and that legal consent should be submitted for such works. It is noted that photographs have been submitted by the applicant, to show unobstructed views north and south either side of the proposed access. I noted on the day of the site visit and while there is not a hedgerow, there are a few trees and a wire fence along the site frontage which is relatively open.
- 7.4.2. An issue has been raised relative to proof of right-of way to use the private roadway in the concurrent application for retention of the shed on lands to the north Ref. ABP-306726-20 refers. No such proof of right of way has been submitted relative to the current application. The access to this shed is further north and proximate to two agricultural field gates at the end of the lane.
- 7.4.3. It is also of note that Bealin High Cross, National Monument (WM029-008), while not developed as a destination, is located on top of a mound on the opposite side of the road to the subject site and is partly screened by planting. The laneway connects to

the L-1427 at Baylin village, where sightlines at the junction are more restricted in an easterly direction (i.e towards Baylin).

- 7.4.4. However, while I would not consider that the proposal of itself, in view of its locational context, will lead to traffic hazard, I would be concerned that it will add to the encroachment of random rural housing and the proliferation of accesses along this private road. I would consider that this proposal would not overcome the Board's second reason for refusal relative to the effective provision of infrastructure, in Ref. ABP-306726-20.

7.5. **Screening for Appropriate Assessment**

- 7.5.1. 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.

8.0 **Recommendation**

- 8.1. I recommend that Outline Permission be refused for the Reasons and Considerations below.

9.0 **Reasons and Considerations**

1. 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.

Angela Brereton
Planning Inspector

14th of April 2021