



An
Bord
Pleanála

Inspector's Report ABP-309310-21

Development	Construction of 10 fully serviced residential units.
Location	Lahard. Ballinamore, Co. Leitrim.
Planning Authority	Leitrim County Council.
Applicant	Ms. Rachel Geoghegan.
Type of Application	EIAR Direction under Article 120(3)A of the Planning and Development Regulations 2001-2020. (Application for Screening Determination)
Date of Site Inspection	9 th March 2021.
Inspector	Patricia Calleary.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	3
4.0 Application for Screening Determination.....	4
5.0 Planning Authority Response.....	5
6.0 Planning History.....	6
7.0 Policy Context.....	6
8.0 Legislation	7
9.0 Relevant Guidance	9
10.0 Assessment.....	9
11.0 Recommendation	16

1.0 Introduction

- 1.1. Under the provisions of Article 120(3)(b) of the Planning and Development Regulations 2001-2020, Ms. Rachel Geoghegan is seeking a determination from An Bord Pleanála, as to whether or not the proposed development by the Local Authority would be likely to give rise to significant effects on the environment, and thereby require the preparation of an Environmental Impact Assessment Report (EIAR). Leitrim County Council are of the opinion that the works do not require an EIAR and has initiated the process set out in Part XI of the Planning and Development Act 2000, as amended and Part 8 of the Planning and Development Regulations, 2001-2020.

2.0 Site Location and Description

- 2.1. The subject site, with a stated area of 0.91 hectares is a vacant plot within an existing housing development known as Lahard to the east of Ballinamore town centre in County Leitrim. Access is from the existing estate road, which connects with the R199 regional road to the south. Adjacent landuses comprise established dwelling houses, two-storey in scale. The site is largely open, marked by hedgerows and interspersed trees to the south and part of the east (at the southern end) and there is a row of high evergreen trees planted along the boundary to the west.
- 2.2. The site slopes significantly from a high point on the east of the site adjacent to the estate road, to a lower level at the west. As defined by the redline boundary, the subject site includes an existing enclosed play court area at the northern end and car parking spaces for approximately four cars in the existing cul de sac.

3.0 Proposed Development

- 3.1. The proposal would comprise ten houses consisting of four two-bedroom and six three-bedroom houses. Eight of the houses are designed as two storey in scale and two as single storey. The proposal also includes 23 car parking spaces, as offsets to the existing estate road at various locations throughout the existing housing development. Connections to the existing foul main, watermain and surface water discharge, landscaped open space and other ancillary and associated works are

also proposed. Retaining walls are proposed to be incorporated into the development to deal with the sloped nature of the site. Houses are orientated and laid out to overlook green spaces.

3.2. The Part 8 application was accompanied by a set of drawings and the following documents:

- A planning report (by Wynne, Gormley Gilsenan Architects & Surveyors Ltd.)
- Engineers Report detailing foul, surface water proposals
- Flood Risk Assessment
- Ballinamore Invasive Species Report
- Environmental Impact Assessment (EIA) Screening Report
- Traffic Report
- Appropriate Assessment (AA) – Stage 1 Screening

4.0 Application for Screening Determination

4.1. On the 22nd January 2021, Ms. Rachel Geoghegan, with an address at No.11 Lahard, Ballinamore, Co. Leitrim applied to the Board for a screening determination, as to whether or not the proposed development would be likely to give rise to significant effects on the environment, and thereby require the preparation of an EIAR.

4.2. The grounds of the application can be summarised as follows:

- The wastewater treatment unit in the town of Ballinamore is currently at capacity;
- Surface water causes flooding in lower lying areas of the town, and also at homes in the lower parts of the existing estate resulting in dangerous road conditions on the estate road;
- The proposal would cause the destruction off established hedgerows, trees and ditches, which have been untouched for considerable time;
- The area is where an abundance of native fauna reside and should remain as is in accordance with policy set out by Leitrim County Council;
- Due to the sloped nature of the ground, the impacts on the landscape are a cause for concern;

- The development will cause an impact on the air quality, which will affect the residents who will have to live beside a building site and sharing the same access road during the construction phase.

5.0 Planning Authority Response

5.1. The Planning Authority responded to the letter of An Bord Pleanála on the 26th February 2021. It included a copy of the Part 8 application documents and a planner's report setting out the response to the third party's request. The response can be summarised as follows:

- Proposal is small scale, being only 2% of the mandatory threshold for EIA and would not be likely to have significant effects on the Environment;
- There is capacity for a 627 population equivalent (PE) in the Ballinamore Wastewater Treatment plant, well in excess of the 30PE which would be required as a result of the subject development;
- The site-specific flood risk assessment concluded that the proposed development would not result in a risk of flooding on the site or along the access road;
- Provides details of storm water design and states that it has been designed to comply with the Greater Dublin Strategic Drainage System (GDSDS) and Sustainable Urban Drainage (SUDS) guidelines;
- The underutilised green area to the front of existing houses (at the site location) will be repurposed to provide open space for residents to enjoy.
- Provides an outline of the landscape proposals including the additional woodland planting proposed;
- Provides details of dealing with the sloped site, including responses to cut and fill requirements;
- Sets out overview of parking proposals and states that additional parking will address current issues of haphazard parking throughout the existing estate;
- Air quality issues will be addressed by adopting good construction management practice and employing dust suppression measures;

- Traffic study carried out included modelling of the impact of the proposed development on the operation of the existing estate entrance, which it found to be negligible;
- Provides an outline of access to the proposed housing units, including sloped driveways in compliance with Part M of the Building Regulations and a footpath designed in accordance with the Design Manual for Urban Roads and Streets (DMURS) document;
- Issues raised do not provide any compelling case to mandate the requirement for EIA and the preparation of an EIAR.

5.2. The Planning Authority provided an EIA Screening report that included the required information specified in Schedule 7A to the Planning and Development Regulations 2001-2020.

6.0 Planning History

6.1. There is no recently recorded history on this site. The Part 8 application is registered under the planning authority reference 21-C-01.

7.0 Policy Context

7.1. Development Plan

7.1.1. The **Leitrim County Development Plan 2015-2021** is the applicable plan for the area. Ballinamore is identified as a Tier 2A town within this plan and as one of the county's three 'key towns'. The site is zoned 'R3- primarily residential' with a description to encourage high-quality residential schemes, with convenient and safe access to local services and a safe and pleasant local environment.

7.1.2. Supporting policies and objectives are set out in the planning report submitted as part of the Part 8 application include:

- Policy 6 (promote viability of facilities by encouraging new residential development to locate within the development envelope of existing towns)
- Objective 21 (provide Local Authority Housing where the need arises)
- Objective 22 (implement Government policy in relation to all aspects of social housing)

- Policy 38 (assist in the provision of houses on sites or lands acquired as part of the overall housing programme)

7.1.3. Leitrim County Council has commenced a review of the existing development plan and is preparing a new plan for the period 2020-2028.

7.1.4. **Leitrim County Housing Strategy 2015-2021** is contained within the County Development Plan. Housing Strategy Policy 1 sets out methods to provide that every household to have available housing. The policy also sets out methods to pursue this policy, which includes the direct provision of housing.

7.2. **Natural Heritage Designations**

7.2.1. There are no designated European sites proximate to the subject site. Two sites have been identified within the zone of influence of the development as follows:

- Cuilcagh Anierin Uplands Special Area of Conservation (SAC) (Site Code: 000584) located approximately 7.7km to the north;
- Lough Oughter and Associated Loughs SAC (Site Code: 000007) located approximately 14.8km to the south east.

8.0 **Legislation**

8.1. **Planning and Development Act 2000 (as amended)**

8.1.1. **Section 172(1)** of the Act states that an EIA shall be carried out in respect of certain applications for consent for proposed development. This includes applications for 'sub threshold' development, namely those which are of a Class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, but do not exceed the relevant quantity, area or other limit specified, and the competent authority determines that the proposed development would be likely to have significant effects on the environment.

8.1.2. **Section 172(1A)** of the Act specifies that the above is relevant to development that may be carried out by the local authority under Part X.

8.2. **Planning and Development Regulations 2001-2020**

8.2.1. **Article 120(3)(b)** of the Regulations states that any person at any time before the expiration of four weeks beginning on the date of publication of the notice may apply

to the Board for a screening determination as to whether a development proposed to be carried out by a local authority would be likely to have significant effects on the environment.

8.2.2. **Article 120(3)(c)** of the Regulations indicates that such applications for screening determination shall state the reasons for the forming of the view that the development would be likely to have significant effects on the environment and shall indicate the class in Schedule 5 within which the development is considered to fall.

8.2.3. **Schedule 5** of the Regulations sets out the classes of development where EIA is required.

- Part 1 – Sets out the development classes which are subject to mandatory EIA;
- Part 2 – Sets out development classes subject to EIA where they exceed a certain threshold in terms of scale or where the development would give rise to significant effects on the environment.

8.2.4. **Schedule 7** – Sets out the criteria for determining whether a development would, or, would not be likely to have significant effects on the environment, under three headings-

1. Characteristics of the proposed development;
2. Location of the proposed development;
3. Types and characteristics of potential impacts.

8.2.5. **Schedule 7A** - relates to information to be provided by the applicant or developer for the screening of sub-threshold development for the purposes of EIA. The requirement for the submission of this information in the case of requests to the Board for a determination under Article 120(3) of the Regulations arises on foot of revisions to Article 120(3) introduced by the EU (Planning and Development) (Environmental Impact Assessment) Regulations, 2018.

8.2.6. **Directive 2014/52/EU** of 16th April 2014, amending **Directive 2011/92/EU** (the EIA Directive) on the Assessment of the Effects of Certain Public and Private Projects on the Environment, entered into force on 15th May 2014. The EIA Directive 2014/52/EU reaffirms that 'Annex I projects' shall be subject to EIA and that for

‘Annex II projects’, Member States shall determine whether the project should be subject to EIA on a case-by-case basis or subject to thresholds or other criteria set by the Member State. The screening determination must be based on the information provided by the developer and if mitigation measures are influential to a screening determination, these must be stated by An Bord Pleanála, as the competent authority, in a screening determination. Annex III of the EIA Directive sets out the revised criteria for determining whether projects should be subject to an EIA under three headings.

9.0 Relevant Guidance

- 9.1. Following transposition by the EU of Directive 2014/52/EU, guidance document ‘**EIA of Projects - Guidance on Screening**’ published in 2017 and other documents were prepared on behalf of the European Commission to assist competent authorities, developers and EIA practitioners in the EU Member States. The screening Guidance outlines a stepped approach to the screening process for competent authorities, as well as two checklists to assist in case-by-case screening.
- 9.2. The ‘**Environmental Impact Assessment Guidance for Consent Authorities regarding Sub-threshold Development**’ published in 2003 by the Department of the Environment, Heritage and Local Government, provides guidance on the criteria to be assessed when deciding whether or not a proposed development is likely to have significant effects on the environment. More recent guidance is also provided in the ‘**Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment**’ published in 2018 by the Department of Housing, Planning and Local Government.
- 9.3. An Bord Pleanála has prepared internal Guidance, specifically ‘**Advice Note 5: Environmental Impact Assessment**’.

10.0 Assessment

10.1. Introduction

- 10.1.1. The proposed development is set out in Section 2 above. It would broadly comprise the construction of ten dwelling houses together with 23 car parking spaces in a

vacant plot within an existing housing development. It would also comprise connections to the existing services and provide landscaping. The request for a screening determination under Article 120(3)(b) includes the reasons for the forming of the view that the development would be likely to have significant effects on the environment.

10.1.2. The question for determination by the Board is whether the proposed development would be likely to have significant effects on the environment and require the preparation of an EIAR. Following its receipt of the request under Article 120(3)(b) of the Planning and Development Regulations 2001-2020, the Board requested the Planning Authority to submit the information as specified in Schedule 7A of the Planning and Development Regulations, 2001, as amended. An EIA Screening Report prepared by Traynor Environmental Ltd. was submitted which I am satisfied contained the information specified in Schedule 7A. It concludes that the development does not trigger the requirement for sub-threshold EIA and that an EIAR is not required.

10.1.3. It is also of relevance to note that the planning authority also submitted an Appropriate Assessment Screening report for the development. It concluded that in view of best scientific knowledge, that the proposed development, on its own or in combination with other plans or projects, does not have the potential to give rise to likely significant effects on any European designated sites, having regard to the relevant sites' conservation objectives.

10.1.4. The following matters are considered relevant in the determination of the requirement for EIA and the corresponding need of an EIAR in this case.

- project type/class of development under Schedule 5 of the Regulations relevant to the proposed development.
- relevant thresholds under Part 2 of Schedule 5 of the Planning and Development Regulations 2001-2020, as amended.
- examination of proposal by reference to the criteria set out Schedule 7 of the Planning and Development Regulations 2001-2020, as amended/Annex III of the EIA Directive 2014/52/EU.

10.2. **Project types/class of development**

10.2.1. The project type is the construction of dwelling units on 'primarily residential' zoned lands within the identified development boundary of Ballinamore, as set out in the Leitrim County Development Plan 2015-2021. The relevant classes of development applicable to the proposed project that is the subject of this referral are as follows:

- Class 10(b)(i) of Part 2 of the Fifth Schedule of the Planning and Development Regulations 2001-2020 (construction of more than 500 dwelling units);
- Class 10(b)(iv) of Part 2 of the Fifth Schedule of the Planning and Development Regulations 2001-2020 (urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere). [In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use].

10.2.2. It is therefore my opinion that the proposed project involves development that is of a class for the purposes of EIA.

10.3. **Relevant threshold under Part 2 of Schedule 5 of the Planning and Regulations 2001, as amended.**

10.3.1. The threshold cited under Class 10(b)(i) in Part 2 of Schedule 5 of the Regulations is the 'construction of more than 500 dwellings'. The proposal involves the construction of ten residential / dwelling units. The proposed development is therefore of a Class but does not meet the threshold of 500 units to require mandatory EIA. It is therefore sub-threshold development for the purpose of EIA under this class.

10.3.2. I have also considered Class 10(b)(iv), being urban development, which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere. [In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use]. The site is 0.91ha and while it is of a class, it does not meet the area threshold of 10ha. It is therefore also sub-threshold development for the purpose of EIA under this class.

10.4. **Examination of the development by reference to the criteria set out in Schedule 7 of the Regulations**

10.4.1. Schedule 7 lists the criteria for determining whether a development would or would not be likely to have significant effects on the environment.

10.4.2. I have therefore considered these in my examination and assessment below, having regard to the information submitted pursuant to Schedule 7A and the legalisation and guidance. I have also considered the concerns raised by the applicant for this EIAR screening determination.

Table 1: EIA Screening Determination (Examination)

Examination	Characteristics of impacts and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No. Small scale (10 houses) on a 0.91 ha site located in an established and developed residential area. Site is zoned residential.	No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	No.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy,	No. Standard construction methods and materials. No significant use of natural	No

especially resources which are non-renewable or in short supply?	resources in operational phase.	
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	No No such materials required or produced.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Discharge of foul effluent to existing public infrastructure. Waste quantities generated as a result of the construction would be small and would be managed by the preparation of a Construction Waste Management (CWM) Plan and adherence to the measures contained therein including adherence to best practice.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No intended discharge of pollutants to ground or surface waters.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Some noise and vibration impacts during construction. Temporary duration, construction hours controllable, localised impact. Mitigation measures proposed in submitted CEMP	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Some dust during construction. Temporary duration, construction hours controllable, localised impact. Mitigation measures proposed in submitted CEMP.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No risk of major accidents given nature of project.	No
1.10 Will the project affect the social environment (population, employment)	Will result in localised increase in population and increase in employment during construction.	No

<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No – This is a standalone project</p>	<p>No</p>
<p>2. Location of proposed development</p>		
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>The site is an open plot within an existing housing estate. It is located in a residential area zoned R3 (primarily residential) under the Leitrim County Development plan 2015-2021. The proposed residential in-fill development would complement the pattern of development in the area and would not result in any significant adverse impacts on land use.</p> <p>Not located in or close to any sensitive site. No pathway for waste or surface water to reach these receptors.</p> <p>The site has been screened for appropriate assessment by the planning authority and it was concluded that the proposed development would not result in adverse effects on any European site, having regard to the sites' conservation objectives.</p>	<p>No</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>It is set out that the National Biodiversity Data Centre website reveals that there are records of two protected mammal species and one protected amphibian species within 1km of the development site. These include: Eurasian Red Squirrel (<i>Sciurus vulgaris</i>), Pine Marten (<i>Martes martes</i>) and Smooth Newt (<i>Lissotriton vulgaris</i>).</p> <p>No evidence that these use the site and can be managed without the need for EIA.</p>	<p>No</p>

2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No such resources on or close to the site.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Site is not located within a flood zone. No surface water features in the vicinity of the site.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	Site is sloped in nature but this can be managed during construction and operation (retaining walls are proposed).	No
2.7 Are there any key transport routes(e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	Site located within a residential development. Nature of development such that would not negatively affect these uses.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No details of any significant development proposals, either existing or planned, in the area have been provided such that would result in significant cumulative impacts.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No

3.3 Are there any other relevant considerations?	No	No
--	----	----

10.5. Conclusion on EIA Screening

Having regard to the examination above which considers the nature, scale and location of the development, the characteristics and location and the characteristics of potential impacts it is considered that the project is unlikely to give rise to significant environmental impacts. Accordingly, that the preparation and submission of an EIAR, is therefore, is not required.

11.0 Recommendation

11.1. I recommend that the Board determine that the development proposed to be carried out by Leitrim County Council would not be likely to have significant effects on the environment and the preparation and submission of an environmental impact assessment report is not required for the reasons and considerations set out under.

11.2. Reasons and Considerations

11.3. Having regard to:

(a) The nature and scale of the proposed development, which is significantly under the threshold in respect of Classes 10(b)(i) (infrastructure – dwelling units) and 10(b)(iv) (urban development) of Part 2 of the Fifth Schedule of the Planning and Development Regulations 2001-2020,

(b) The location of the site on lands that are zoned for residential use under the provisions of the Leitrim Development Plan 2015-2021 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),

(c) The location of the site in an established residential area served by public infrastructure including a stated available capacity in the wastewater treatment plant and the existing pattern of development in the vicinity,

(d) The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001-2020 and the absence of any relevant connectivity to any sensitive location,

- (e) the guidance referenced in the inspectors report,
- (f) the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001-2020,
- (g) the report and recommendation of the reporting inspector,

it is considered that the proposed development would not be likely to have significant effects on the environment and, accordingly, that the preparation and submission of an Environmental Impact Assessment Report is not required.

Patricia Calleary
Senior Planning Inspector

22nd March 2021