



An
Bord
Pleanála

Inspector's Report ABP-310948-21

Development	Construct a new split level, single storey dwelling with detached garage, provision of new entrance, boundary wall / fence, install new wastewater treatment system, percolation area and ancillary site works.
Location	Pearsonsbrook, Glasson, Athlone, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	2140
Applicant(s)	Robert Buckley
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Paul Stark
Observer(s)	Sean & Geralyn Mimmagh
Date of Site Inspection	17 th February, 2022
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Pearsonsbrook, Glasson, Athlone, Co. Westmeath, approximately 1.4km east of the village of Glasson and c. 8km northeast of Athlone town, where it occupies a hillside position along the northern side (and towards the eastern end) of a narrow unmetalled farm track / laneway known as the 'Old Coach Road' which extends between Glasson Village and its junction with Local Road No. L1437 (c. 120m to the east beside a complex of farm buildings). While the surrounding landscape is primarily one of undulating rural countryside, there is a considerable proliferation of piecemeal one-off housing and linear-type development in the wider area. In this regard, there are 5 No. dwelling houses on contiguous sites alongside Local Road No. L1437 a short distance away to the north while a further dwelling has recently been constructed on the lands to the immediate west of the site.
- 1.2. The site itself has a stated site area of 0.49 hectares, is broadly rectangular in shape, and presently forms part of a larger agricultural field which rises sharply from Local Road No. L1437 towards the 'Old Coach Road'. It adjoins the existing laneway to the south while the adjacent lands to the north, east and west are in agricultural use. With the exception of the northernmost site perimeter (which is not physically defined at present), the site boundary generally comprise a combination of mature trees and hedgerows.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a split-level, single-storey dwelling house with a stated floor area of 220m² and a maximum ridge height of 6.67m. The overall design is based on an 'L'-shaped plan and utilises a pair of narrow plan forms with a variety of ridge heights and eaves levels. External finishes include napp plaster (although reference is also made to natural stone in the specifications) and blue / black roof slates.
- 2.2. A free-standing garage (floor area: 42m²) is to be constructed to the (western) side of the house.

- 2.3. Access to the site will be obtained via a new entrance arrangement onto the adjacent laneway with the roadside boundary to be set back as required to achieve sightlines of 60m in both directions.
- 2.4. It is proposed to install a packaged wastewater treatment system with treated effluent being discharged to ground via a polishing filter. A water supply will be obtained from a new bored well on site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of a response to a request for further information, on 29th June, 2021 the Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 10 No. conditions. These conditions are generally of a standardised format and relate to issues including occupancy, external finishes, effluent disposal, landscaping, and development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report prepared by the case planner details the site context, planning history, and the applicable policy considerations (*N.B.* The Westmeath County Development Plan, 2014-2020 has since been superseded by the Westmeath County Development Plan, 2021-2027). It proceeds to note that, on the instruction of the Director of Services, proposals for rural housing were to be assessed having regard to the County Development Plan and not Objective No. 19 of the National Planning Framework. It subsequently recommends that permission should be refused as no documentation had been submitted as regards the applicant's connections to the area or his rural housing need. In terms of siting and design, concerns were raised as regards the backland location and the elevated position of the proposal as well as the extent of hedgerow to be removed. It was thus considered that the development would not integrate into the countryside, would have a negative visual impact, would set an undesirable precedent, and would have

an adverse impact on the residential amenity of adjacent properties. The report concluded by recommending a refusal of permission for the following 4 No. reasons:

- It is the policy of the planning authority, as set out in the current development plan, to control non-essential dispersed residential development in rural areas and to direct such development to existing settlements and to facilitate rural generated housing in the area where the applicants can demonstrate an intrinsic link, in order to minimise the impact of development on agriculture and the landscape, to strengthen rural communities and to allow for a more economic and orderly provision of services and infrastructure.

It has not been demonstrated that the proposed development comes within the foregoing development objectives P-LHN1 and P-LHN2 as set out in the Westmeath County Development Plan, and guidance contained in the Sustainable Rural Housing Guidelines; the proposed development is considered contrary to the proper planning and sustainable development of the area.

- The siting of the proposed development is non-reflective of traditional siting in that the proposed development fails to integrate into the countryside, having regard to the juxtaposition of existing built form, the proposed development would result in backlands development thereby setting an undesirable precedent, would have an adverse impact on adjacent residential amenity and would be contrary to the proper planning and sustainable development of the area.
- Having regard to the density of existing development and wastewater treatment systems in the vicinity, the issue of cumulative impact of an additional septic tank / wastewater treatment system at this location, it is considered that the proposed development would result in the excessive concentration of development served by septic tanks and wastewater treatment systems in the area. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
- The proposed development requires the removal of a significant amount of mature hedgerow and trees in order to accommodate the development and

achieve the required sightlines. This will have a negative visual impact on the surrounding environment. The proposed development would seriously injure the amenities of the area and the rural landscape character and would be contrary to the proper planning and sustainable development of the area and contrary to Policy P-TWH2 of the Westmeath County Development Plan, 2014-2020.

However, on the instruction of the District Manager, the Planning Authority issued a request for further information on a number of issues, including the applicant's intrinsic links to the area and the proposed access arrangements. Following the receipt of a response to this request for further information, a subsequent report compiled by the case planner continued to recommend that permission be refused for the following 3 No. reasons:

- The siting of the proposed development is non-reflective of traditional siting in that the proposed development fails to integrate into the countryside, having regard to the juxtaposition of existing built form, the proposed development would result in backlands development thereby setting an undesirable precedent, would have an adverse impact on adjacent residential amenity and would be contrary to the proper planning and sustainable development of the area.
- Having regard to the density of existing development and wastewater treatment systems in the vicinity, the issue of cumulative impact of an additional septic tank / wastewater treatment system at this location, it is considered that the proposed development would result in the excessive concentration of development served by septic tanks and wastewater treatment systems in the area. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
- The proposed development requires the removal of a significant amount of mature hedgerow and trees in order to accommodate the development and achieve the required sightlines. This will have a negative visual impact on the surrounding environment. The proposed development would seriously injure the amenities of the area and the rural landscape character and would be

contrary to the proper planning and sustainable development of the area and contrary to policy CPO12.39 of the Westmeath County Development Plan, 2021-2027.

This recommendation was again rejected by the District Manager who opted to grant permission for the proposed development, subject to conditions, with a memo dated 28th June, 2021 referring to the applicant's strong links to the area and concluding that the proposal could be accommodated on site.

3.2.2. *Other Technical Reports:*

Area Engineer: An initial report raised concerns as regards the substandard condition of the access road and the poor visibility at its junction with Local Road No. L1437 before stating that the increased traffic turning movements consequent on the proposed development would give rise to a traffic hazard. It was subsequently recommended that the applicant be required by way of a request for further information to provide details of the access route to the proposed development as well as evidence of a right-of-way along the laneway.

Following the receipt of a response to a request for additional information, a further report was prepared which stated that there was no objection to the proposed development while recommending a series of conditions to be attached to any grant of permission.

3.3. **Prescribed Bodies**

Irish Water: No objection.

3.4. **Third Party Observations**

3.4.1. A total of 2 No. submissions were received from interested third parties and the principal grounds of objection / areas of concern raised therein can be summarised as follows:

- The proposed development contravenes the Westmeath County Development Plan, 2014-2020.
- Permission was previously refused for a dwelling house on adjoining lands under PA Ref. No. 15/7024.
- The substandard condition and width of the existing access laneway.

- The inadequacy of the sightlines available at the junction of the laneway with the local road to the east.
- The existing / proposed site entrance has not been used for at least 17 No. years.
- The excessive concentration / densification of septic tank / wastewater treatment systems in the area.
- Concerns as regards the setting of an undesirable precedent for similar development in the area.
- The potential for contamination of nearby water sources / private wells.
- The increased demand on groundwater resources & well yields.
- The inappropriate backland nature of the development.
- The potential detrimental impact on the amenity and tourism value of the Old Coach Road.

4.0 Planning History

4.1. On Site:

- 4.1.1. PA Ref. No. 207048. Application by Robert Buckley for permission for the construction of a split-level two-storey dwelling with detached garage, provision of new entrance, boundary wall/fence, installation of wastewater treatment system, percolation area and ancillary site works. This application was withdrawn.
- 4.1.2. PA Ref. No. 991221 / ABP Ref. No. PL25.117225. Was refused on appeal on 31st March, 2000 refusing Christa Lilge permission for a house, septic tank and 2 No. garages.
- The proposed development would constitute undesirable backland development and having regard to its location behind and above existing houses, would seriously injure the amenities and depreciate the value of those properties. The proposed development would, therefore, be contrary to the proper planning and development of the area.
 - The proposed development, because of its siting and location, would detract from the visual amenities and scenic character of the area and would militate

against the preservation of the rural environment which would be contrary to the proper planning and development of the area.

- Taken in conjunction with existing development, the proposed development would lead to the uneconomic demand for the provision of public services and would, therefore, be contrary to the proper planning and development of the area.

4.2. **On Sites in the Immediate Vicinity:**

4.2.1. *(On lands c. 90m further west):*

PA Ref. No. 157084. Was granted on 18th November, 2015 permitting Eoin & Claire Coghill permission for the construction of a two-storey dwelling house, garage, wastewater treatment system and polishing filter, bored well and all associated site works, at Pearsonsbrook, Glasson, Athlone, Co. Westmeath.

4.2.2. *(On lands c. 90m further east / northeast):*

PA Ref. No. 157024. Was refused on 9th April, 2015 refusing Orla Shaughnessy outline permission to construct a dwelling, domestic garage, septic tank and percolation area at Pearsonsbrook, Glasson, Athlone, Co. Westmeath.

- It is the policy of the Planning Authority, as set out in the current Development Plan, to control non-essential dispersed residential development in rural areas and to direct such development to existing settlements and to facilitate rural generated housing in the area where the applicants can demonstrate an intrinsic link, in order to minimise the impact of development on agriculture and the landscape, to strengthen rural communities and to allow for a more economic and orderly provision of services and infrastructure.

It has not been demonstrated that the proposed development comes within the foregoing development objectives set out in the Westmeath County Development Plan 2014-2020 or guidance contained in the Sustainable Rural Housing Guidelines; the proposed development is considered contrary to the proper planning and sustainable development of the area.

- Having regard to the topography and open aspect of the site, it is considered that the development would result in undue scarring of the landscape that would be detrimental to the character and appearance of the countryside. The

proposed development, if permitted, would have an adverse impact on the landscape and would be contrary to the proper planning and sustainable development of the area.

- It is considered that the proposed development, when taken in conjunction with existing and permitted development in the area would further exacerbate the significant ribbon development in the area, the proposed development would constitute the 6th dwelling within a 230m stretch of roadway which would be injurious to the visual amenity of the area, and result in the erosion of the rural character of the area. The proposal would therefore be contrary to the proper planning and sustainable development of the area and contrary to Appendix 4 of Sustainable Rural Housing Guidelines 2005.
- The proposed development would lead to an excessive concentration of wastewater treatment systems within this rural area and this would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in an '*Area under Strong Urban Influence*' as indicatively identified by the Guidelines. Furthermore, in accordance with the provisions of the Guidelines, the Westmeath County Development Plan, 2021-2027 includes a detailed identification of the various rural area types specific to the county at a local scale and '*Map 9.1: Rural Typology*' of the Plan details that the site is located in a '*Rural Area under Strong Urban Influence*'.

5.2. Development Plan

- 5.2.1. ***Westmeath County Development Plan, 2021-2027:***

Chapter 2: Core Strategy:

Section 2.14: *Rural Areas:*

Section 2.14.1: *Rural Area Under Strong Urban Influence:*

This area comprises most of the County and is characterised by stable population levels with well-developed town and village structures and a strong agricultural base. The objective in these areas is to maintain a stable population base in rural areas within a strong network of villages and small towns. The policy is to facilitate housing development by people who have strong links to the particular rural area, who are an intrinsic part of the rural community.

Such persons would normally have spent substantial periods of their lives living in the rural area as part of the established rural community, e.g. people employed in the rural area including farmers and their sons and daughters, people originally from the rural area and wishing to return, people wishing to reside near elderly parents to provide security and care, elderly parents wishing to live near other family members, people who would have grown up in rural areas seeking to build their home close to other family members, people working in rural areas such as teachers in rural schools.

The aim is to support the desire of individual applicants with strong rural links to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns or villages.

Core Strategy Policy Objectives:

CPO 2.11: Support the sustainable development of rural areas in Westmeath by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

CPO 2.12: Support the servicing of rural villages (serviced sites) to provide an alternative to one-off housing in the countryside, in line with RSES Objective RPO 4.78.

Chapter 3: Housing:

Section 3.5: Future Housing Requirements:

Section 3.5.2: *Rural Single Housing*

It is recognised that there is a continuing need for housing provision for people to live and work in rural Westmeath. The NPF states that it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. Elsewhere, single housing in the countryside will be facilitated based on siting and design criteria and having regard to the viability of smaller towns and rural settlements. These requirements are reflected in the Core Strategy of this Development Plan which includes a differentiation between 'Rural Areas under Strong Urban Influence' and 'Structurally Weak Rural Areas'.

Chapter 7: Urban Centres & Place-Making:

Section 7.8: Urban – Rural Interface:

The distribution and location of new development in Westmeath is guided by the Settlement Strategy and the Core Strategy. This Plan supports the hierarchy of attractive, compact and consolidated settlements from the large settlements of Athlone and Mullingar to the smaller towns and villages serving the County. It is important to ensure that the future development of the settlements in the hierarchy physically distinguishes the development envelopes of town and villages from the surrounding rural hinterland and protects against unsustainable sprawl of urban growth.

The approach views to towns and villages are important in projecting the initial image and character of place. Traditionally, the interface between urban and rural areas was clearly defined; in this regard future development must be carefully considered to ensure the protection of the distinct settings between established built-up settlements and the surrounding countryside by creating a defined urban edge.

Urban-Rural Interface Policy Objective:

CPO 7.46: Protect the unique setting of towns and villages by providing for the maintenance of strong defined urban edges.

Chapter 9: Rural Westmeath:

Section 9.4: Rural Settlement Strategy:

Rural Housing Need Policy Objectives:

CPO 9.1: Areas Under Strong Urban Influence:

To accommodate demand from individuals for permanent residential development in defined 'Rural Areas Under Strong Urban Influence' who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations.

Local Housing Need:

Permit residential development in areas defined 'Rural Areas Under Strong Urban Influence and Stronger Rural Areas' 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 for this purpose being defined as persons who own the land 5 years prior to the date of planning application,
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 farmholding 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.

The local area for the purpose of this policy is defined as the area generally within a 10km radius of the applicant's family home

CPO 9.2: In line with Circular Letter PL 2/2017, review rural housing policy in line with Development Plan or other relevant Guidelines issued by the Minister in this area having regard to NPO 19.

Section 9.5: Environmental Capacity:

Rural Housing Criteria Policy Objectives:

CPO 9.8: Ensure that, in permitting one-off rural housing, key rural assets such as water, natural and cultural heritage and landscape quality are protected and maintained.

CPO 9.9: Protect the natural assets of the county including ground and surface water and ensure that physical standards are met including soil conditions suitable for effluent disposal and the avoidance of flood areas.

CPO 9.10: Protect the integrity of the landscapes as identified in the Landscape Character Assessment and protected views.

CPO 9.13: Have regard to the Department of Environment, Community and Local Government's Sustainable Rural Housing Guidelines 2005, and any subsequent amendment in the assessment of applications for rural housing.

Section 9.5.1: Rural Housing Siting and Design

Section 9.6: Development within the Hinterland of Settlements:

The aim of policy in these areas is to avoid undesirable ribbon development on the approaches to settlements and to protect the fabric of settlements by restricting development on the outskirts of the regional centre, towns and villages. Provision will be made for farmers, members of farm families and people that have spent substantial parts of their lives as part of the established rural community building their first home.

Proposals shall in all instances, except for reasons of traffic safety, design or other environmental consideration, be clustered with the existing family home or if farm buildings are isolated from the family dwelling, consideration can be given to grouping with farm structures.

Development within the Hinterland of Settlements Policy Objectives:

- CPO 9.14:* Promote the clustering of houses particularly on the same landholding or for the same family and promote shared accesses to minimise hedgerow removal.
- CPO 9.15:* Control ribbon development, particularly on approach roads into the county's regional centre, key town, self-sustaining growth towns and self-sustaining towns.
- CPO 9.17:* Ensure that the road network is adequate to cater for the development and that the traffic movements generated by the development will not give rise to a traffic hazard.
- CPO 9.18:* Retain, insofar as practicable, existing hedgerows and trees on new house sites. Replacement trees and hedgerows should be of native species.
- CPO 9.19:* Generally, resist urban generated and speculative residential development outside the settlement hierarchy.
- CPO 9.20:* Encourage innovative design, and layouts that promote solar gain subject to protecting the character of the landscape.
- CPO 9.21:* Undertake a review of the Westmeath Rural Housing Design Guidelines.

Chapter 10: Transport, Infrastructure & Energy:

Section 10.13.1: Wastewater Treatment and Disposal Systems Serving Single Houses

Wastewater Policy Objectives:

- CPO 10.99:* Protect against development proposals, involving individual treatment systems, which would increase effluent loading within existing housing clusters located within areas of high groundwater vulnerability.
- CPO 10.100:* Ensure that private wastewater treatment plants, where permitted, are operated in compliance with EPA's Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (PE. ≤10) (EPA 2009), as may be amended.

Chapter 12: Natural Heritage and Green Infrastructure:

Section 12.24: Public Rights of Way

CPO 12.89: Review and protect existing public rights of way for the common good and bring forward proposals for the creation of public rights of way (including access to historical sites and graveyards). Where appropriate, links to established public rights of way in adjoining counties will be identified.

Chapter 13: Landscape and Lake Management:

Section 13.12: Character Area 6: Lough Ree & Shannon Corridor

Chapter 16: Development Management Standards:

Section 16.3.7: Rural Housing:

Notwithstanding an applicants' demonstration of compliance with the rural housing criteria as set out at Chapter 9, it is important to note that applicants are also required to meet overriding sustainable planning practices in terms of visual impact, design standards, environmental and traffic safety issues.

The design of rural housing development requires careful design consideration to ensure that all new development sensitively integrates into the landscape. This requires specific focus on site selection, design, scale and form of the proposed development. The most successful designs subtly integrate with the receiving landscape by selecting naturally sheltered and screened sites and the development of a simple built form complimented with the use of materials that are reflective of traditional vernacular.

Development Management Standards Policy Objectives - Rural Housing:

CPO 16.32 – CPO 16.34

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Waterstown Lake Proposed Natural Heritage Area (Site Code: 001732), approximately 1km south-southwest of the site.

- The Lough Ree Special Area of Conservation (Site Code: 000440), approximately 1.9km west of the site.
- The Lough Ree Proposed Natural Heritage Area (Site Code: 000440), approximately 1.9km west of the site.
- The Lough Ree Special Protection Area (Site Code: 004064), approximately 2.1km west-southwest of the site.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and small scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest 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 proposed development site occupies an elevated position to the rear of existing housing (including the appellant's dwelling) and forms part of a larger agricultural field where residential development has previously been refused permission on the grounds that it contravened the County Development Plan and would give rise to an excessive density / concentration of wastewater treatment systems. It is unclear as to why a similar approach has not been applied with respect to the subject proposal while the only reference to wastewater treatment which appears to have informed the grant of permission is as follows:

'the district engineer raises no issues with the wastewater infrastructure proposed and it is not considered to have any adverse impact on adjacent residents'.

This is an unsatisfactory explanation. A clear technical rationale should be provided to support the Planning Authority's conclusions as regards wastewater treatment given that the percolation test results indicate fast percolation / infiltration properties on site.

In view of the foregoing, concerns remain as regards the potential for foul water / effluent from the proposed septic tank to discharge into down-gradient properties. It is also unclear as to why the proposal is not considered to breach the Development Plan.

- With respect to the proposed access arrangements, the site entrance will be located c. 1.5km from the N55 National Road in Glasson village and will be reliant on access via a private agricultural laneway / track which is used by local farmers & contractors and also serves as a popular walking route (it is described as an ancient road and was used as a monastic trail to a settlement in Kilkenny West). This laneway is narrow and in an extremely poor condition and there are concerns that the proposed development will have a detrimental impact on its historical character and usage. Furthermore, the increase in vehicular traffic consequent on the proposed development will pose a risk to pedestrian safety and will also serve to disrupt agricultural activities (including the movement of livestock and machinery) which are reliant the laneway.
- The existing laneway is seriously substandard and in need of significant upgrading. Therefore, the feasibility of using the track for access by both the applicant and construction traffic (in the event of a grant of permission) is questionable.
- Although the applicant's father has asserted that there is an established right of way to the site along the adjacent laneway, the existing field gate (i.e. the proposed entrance) has been sealed with barbed wire for at least 17 No. years and is surrounded by overgrown vegetation thereby indicating an absence of use (please refer to the accompanying photographs). Furthermore, to the appellant's knowledge (as a regular user of the laneway), the applicant's father has never used this entrance to access the site over the aforementioned period. Access to the development site has always been via Local Road No. L1437 and across the wider field of which it forms part.

- Given that the decision to grant permission was informed by the applicant's response to the request for further information (which included an assertion by the applicant's father that the field gate from the adjacent laneway was in daily use), and as that information should have been held to be 'significant', the appellant's observations on that response should have been accepted and considered by the Planning Authority.
- In light of the difficulties identified in accessing the site as proposed, concerns arise as regards the potential for the applicant to avail of an alternative means of access as follows:
 - Via an eastern approach along the agricultural laneway / track extending from Local Road No. L1437 (which is less than 100m from the proposed site entrance). This is a dangerous junction and any increase in traffic turning movements onto / off the public road would give rise to a traffic hazard.
 - By way of the existing entrance arrangement to the north / northwest from Local Road No. L1437 which is currently used to access the wider landholding (as was observed during the harvesting of silage on the lands by agricultural contractors).

Clarity is required from the Planning Authority as to how any use of these alternative routes will be avoided.

- There are concerns that the proposed development could set a precedent for further backland development on the landholding.
- Considering the number of houses built by the applicant's father in the immediate area, it is difficult to understand how the family's local needs have not been met.

6.2. Applicant's Response

- By way of background, the Board is advised that the application site forms part of a larger holding owned by the applicant's family for the past 19 No. years. In this regard, the subject site is the only suitable land available to the applicant to live and retain close links with his family and the local community.

- The proposed dwelling has been designed to integrate with the sloping topography while the planned perimeter planting will further reduce any impact on the wider landscape and neighbouring housing.
- With respect to the appellant's concerns as regards the density of wastewater treatment systems locally, no evidence has been submitted to suggest that the proposed development will pose a risk to public health. On the contrary, the treatment system proposed will adequately address the concerns raised.
- The District Engineer has raised no concerns as regards the proposed wastewater treatment system and is of the opinion that it will not give rise to any adverse impact on adjacent housing / residents.
- The wastewater treatment system proposed will accord with EPA guidance and will be installed, operated and maintained in accordance with the 'Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, 2009'.
- No objections / submissions regarding the proposed development have been received from either Water Services or Irish Water.
- Access to the proposed dwelling will be obtained via the private road that links to Local Road No. L14591. This roadway is known as the 'Old Coach Road' which is, in itself, instructive of its historical and frequent use by the public as well as its long-standing vehicular usage, with such right being recognised by the Courts as not being static and being allowed to respond and evolve with social change, meaning that a right of way, for example, granted at the beginning of the last century which allowed passage by horse-drawn carriages, might now extend to cars and motorised vehicles (*McMahon J, White v. Callan* [2006] 2 I.L.R.M. 92 at 94).
- There is a requirement under the Planning and Development Act, 2000, as amended, for the Local Authority to preserve the existing public right of way by including it in the County Development Plan. The 'Old Coach Road' is listed under Map 52 of the Draft Westmeath County Development Plan, 2021-2027 as a public right of way.

- The District Engineer did not object to the access proposed onto the private laneway.
- The laneway is used by the applicant on a daily basis to access his landholding and he does not require access to the L14591 junction. The applicant's father has also signed a Declaration to confirm that there is an established right of way and that the access road to the site will be upgraded to a suitable standard which will improve the roadway for both the applicant and other landowners.
- Pursuant to the Roads Act, 1993, a Roads Authority may, by order, declare any road over which a public right of way is in place to be a public road which will inform the future prospects of this particular road given that part of it abuts a public road.
- With regard to the 'Alternative Access Routes' referenced by the appellant, this is considered to be unhelpful speculation and of no relevance to the application as submitted. The arrangements for access by agricultural vehicles for the purposes of silage harvesting etc. is of no relevance to the application and any inference or speculation about alternative access routes should be discounted.
- The submitted particulars demonstrate that the applicant is a native of Pearsonbrook, Glasson, and that he intends to return to the area where he grew up and attended school to build on a site some 1.3km from his parent's home. He has a strong connection and intrinsic links to the area and, therefore, there is a positive presumption as regards 'local need'. The applicant owns no other dwellings, and the subject site is the only landholding available to him from his family.
- The applicant has demonstrated a genuine and intrinsic need in accordance with the Development Plan and the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*'.
- Section 9.4: '*Rural Settlement Strategy*' of the Draft Westmeath County Development Plan, 2021-2027 states the following:

‘The aim is to support the desire of individual applicants with strong links and a need to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns, villages and rural nodes. Such persons would normally have spent substantial periods of their lives living in the rural area as part of the established rural community e.g. people employed in the rural area including farmers and their sons and daughters, people originally from the rural area and wishing to return, people wishing to reside near elderly parents to provide security and care, elderly parents wishing to live near other family members, people who would have grown up in rural areas seeking to build their home close to other family members, people working in rural areas such as teachers in rural schools’.

Having regard to the foregoing, the applicant has clearly demonstrated his *bona fides* and his genuine desire to reside close to his aging parents and within the broader community of his extended family.

- The reference to other residential properties constructed by the applicant's father in the Brittas / Glasson area is irrelevant and should not be taken into consideration. Given that the applicant's father has been in the building trade for a considerable period of time, it is only reasonable to expect that he would have built a number of houses in the local community.
- With respect to the suggestion that the proposal amounts to backland development, it is clear that the location of the proposed dwelling accords with the proper planning and sustainable development of the area and does not constitute ‘backland development’.
- The design of the proposed dwelling has had regard to the ‘Westmeath Rural Design Guidelines’ and is not out of character with the area. The proposal is of a low profile design and the site is capable of absorbing the construction with appropriate screening.
- The likely impact of the proposed dwelling has been reduced through the omission of the first floor level (as was previously proposed under PA Ref. No. 207048) and the associated lowering of its overall height. This height reduction along with the fact that the finished floor level will be 3m below the roadway at the site entrance will ensure minimal impact from the access road

and surrounding dwellings. The proposed dwelling will also be located on the back slope of a steadily increasing roadway which is surrounded by mature & semi-mature trees & hedgerows.

- The dwelling house granted permission on lands further west (PA Ref. No. 15/7084) occupies a significantly more elevated position.
- The design of the proposed development, when taken in combination with the detailed landscaping plan submitted in response to the request for further information, will likely have no visual impact on neighbouring housing.
- Having regard to the information on file, including the applicant's links to the site, family land ownership, and compliance with the local need provisions of the County Development Plan / Rural Settlement Strategy, the decision to grant permission should be upheld.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

6.4.1. *Sean & GERALYN MIMNAGH:*

- Permission was previously refused for a dwelling house in the same location as that presently proposed under PA Ref. No. 991221 / ABP Ref. No. PL25.117225. The rationale for that refusal has not been addressed.
- The application site is outside of the development limit of the village of Glasson and is in contravention of the County Development Plan.
- The site adjoins the 'Old Coach Road', a wildlife reserve and walkway of natural and historic interest which serves as a local amenity with considerable tourism potential. In the event the proposal proceeds, it would set an undesirable precedent for further development along the length of the laneway to Glasson Village.

- The proposal will detract from the scenic character and amenity of the area. In this respect, the following policy objectives of the Westmeath County Development Plan are of relevance:
 - P-GT4: To protect the county's tourism assets and capitalise on the distinct tourism attractions that the county has to offer including natural, built and cultural heritage, scenic landscapes, lakes, rivers, bogs and forests.
 - P-GRH3: To control ribbon development, especially close to the Gateway, towns and villages.
- Similar developments have previously been refused permission along the laneway i.e. PA Ref. Nos. 06/1029, 04/1011, 01/687, 00/56 & 98/1403.
- The application site is in close proximity to Recorded Monument No. WM01690 (barrow). The increasing levels of development along the laneway will inevitably lead to increased levels of traffic and the eventual placement of tarmacadam over a 17th Century pre-industrial road surface.
- Due to the elevated position of the proposed development, concerns arise as regards the potential for wastewater to discharge into down-gradient properties with associated impacts on water / wastewater considerations. In this regard, Policy Objective No. P-RH1 of the Development Plan aims to *'ensure that, in permitting one-off rural housing, key rural assets such as water, natural and cultural heritage and landscape quality are protected and maintained'*.
- The backland nature of the development encroaches on the observers' amenity & privacy as follows:
 - The observers' have experienced water supply / yield issues with their well and, therefore, concerns arise that the proposed development will place an increased demand on water resources in the area.
 - The potential for contamination of the observers' water supply by wastewater discharge.
 - The inclusion of several windows which will result in overlooking of the observers' property with an associated loss of privacy.

- The loss of residential amenity to the rear of their property.
- The potential for a loss of light / overshadowing consequent on any landscaping intended to mitigate the visual impact of the proposal.
- The existing laneway (over which access to the development is proposed) is seriously substandard and is for the most part only traversable by 4x4 or tractor.
- The sightlines from the junction of the laneway onto Local No. L1437 (to the east) are deficient and pose a risk to traffic safety.
- Any increase in traffic along the laneway will further degrade its fragile condition.
- It is apparent that the gateway through which it is proposed to access the development is not in regular use.
- The applicant's family has numerous properties in the area and thus the need for a further dwelling is questionable.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development / rural housing policy
- Overall design & layout / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development / Rural Housing Policy:

- 7.2.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy, it is of relevance in the first instance to note that the proposed development site is located in an '*Area under Strong Urban Influence*' as indicatively identified by the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' and that the detailed identification of the various rural area types at a county level shown on Map No. 9.1: '*Rural Typology Co. Westmeath*' of the Westmeath County Development Plan, 2021-2027 similarly indicates that the site is located in a '*Rural Area under Strong Urban Influence*'. The Guidelines state that '*Areas under Strong Urban Influence*' will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Athlone Town) and will generally be under considerable pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing them (e.g. the N55 National Road and the M6 / N6 Corridor). Notably, within these '*areas under urban influence*', the National Planning Framework ('Project Ireland 2040: Building Ireland's Future') states that it will be necessary for applicants to demonstrate '*a functional economic or social requirement for housing need*' (with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements). The Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.
- 7.2.2. Considering the proliferation of one-off rural housing development observed in the wider area during the course of my site inspection, and the evidence of the continuing pressure for such development due to the close proximity of Athlone town and a number of national routes, I would concur that the prevailing characteristics of the surrounding area are indicative of an '*Area under Strong Urban Influence*'. Accordingly, it is necessary to consider whether the applicants satisfy the relevant eligibility criteria, with particular reference to Objective CPO 9.1 of the Development Plan which seeks to accommodate individuals for permanent residential

development in *'Rural Areas Under Strong Urban Influence'* who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations. More specifically, it must be established whether the applicants meet the 'local housing need' provisions by reference to one of 6 No. qualifying criteria (with the local area for the purpose of this policy defined as the area generally within a 10km radius of the applicant's family home).

7.2.3. Given the broader site context, including its location relative to the village of Glasson, cognisance should also be taken of Section 9.6: *'Development within the Hinterland of Settlements'* of the Development Plan which aims to avoid undesirable ribbon development on the approaches to settlements and to restrict development on the outskirts of the regional centre, towns and villages. Notably, provision is to be made for *'farmers, members of farm families and people that have spent substantial parts of their lives as part of the established rural community building their first home'* within the *'hinterland of settlements'*, and all such proposals, except for reasons of traffic safety, design or other environmental consideration, are required to be clustered with the existing family home or, if farm buildings are isolated from the family dwelling, consideration can be given to grouping with farm structures.

7.2.4. In addition to the foregoing, I would suggest that it is appropriate to have regard to the provisions of the *'Sustainable Rural Housing, Guidelines for Planning Authorities'* which state that in facilitating housing intended to meet rural-generated needs eligible persons can include those working full-time or part-time in rural areas or persons who are an *'intrinsic part of the rural community'* which are defined as follows:

'Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence.'

(For the purposes of clarity, I would advise the Board that Circular letter PL 2/2017: *'Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans'* clearly states that the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'* remain in place and thus form the current 'default' position (as supported by the National Planning Framework) pending the publication of revised guidance by the Department).

7.2.5. From a review of the available information, including the particulars provided by way of further information and in response to the grounds of appeal, it should be clarified at the outset that the applicant is not the 'owner' of the subject site (as has been stated in response to Question No. 10 of the planning application form) but is instead acquiring it from his father, Mr. Malachy Buckley, who in turn purchased the land as part of a larger holding in 2002 / 2003. Notwithstanding the foregoing, it appears that the applicant is originally from the village of Glasson where he presently resides in the family home with his parents c. 1.3km west of the application site. He would appear to have resided in the locality since birth (except for during his college studies) and is presently employed as an electrical engineer at Breedon concrete plant (c. 25 miles away) where he is completing an apprenticeship (although reference has also been made to his working part-time in the family construction firm). Further support is lent to the proposal by the assertion that the applicant attended the local primary school in Tubberclair as well as his ancestral & familial connections to the wider Glasson area and his involvement in local community and sporting organisations. He has also indicated a desire to live close to his aging parents and extended family. It has been further submitted that he does not own a dwelling house and that the subject site is the only available landholding to him from his family.

7.2.6. On the basis of the available information, the case has been put forward that the applicant has long-term residency and social / familial links to the nearby village of Glasson to the effect that he has *'strong links to the area'* and forms *'an intrinsic part of the rural community'* thereby satisfying the local housing need provisions of Objective CPO 9.1: *'Areas Under Strong Urban Influence'* of the Development Plan. By extension, given that the applicant has resided in the locality for a substantial period of his life, it could be said that he satisfies the broader provisions of Section 9.4 of the Development Plan which states that persons applying for permission in

'Rural Areas Under Strong Urban Influence' must have strong links (and a need to settle) in that area and will *'normally have spent substantial periods of their lives living in the rural area as part of the established rural community'*. Notably, eligible persons are listed in the Plan as people who would have grown up in rural areas seeking to build their home close to other family members, people wishing to reside near elderly parents to provide security and care, and people working in rural areas.

7.2.7. While I would concede that the applicant would appear to satisfy the eligibility criteria set out in Objective No. CPO 9.1 of the Development Plan, I would advise the Board that in assessing the merits of the proposal and whether the applicant satisfies the relevant eligibility criteria in terms of having a *'functional economic or social'* housing need requirement to reside at the location proposed as per National Policy Objective No. 19 of the NPF, cognisance must be taken of the fact that his residency and familial links are to the village of Glasson as opposed to the rural area in question. A key consideration in the assessment of proposals for single housing in the countryside pursuant to National Policy Objective 19 is the viability of smaller towns and rural settlements and in this regard I am unconvinced of the applicant's need for a dwelling at the location proposed. Other than for the acquisition of the wider landholding by the applicant's father a number of years ago, the applicant has no functional connection to the development site nor does he appear to have any demonstrable economic, social or locational need to reside at the location proposed. While I would acknowledge the applicant's desire to live locally with a view to supporting his parents and to be close to family members, he is originally from and resident in the village of Glasson and has no employment, occupational or economic need to reside at the subject site. Accordingly, I am unconvinced that he has a functional need to reside at the rural location proposed and that his housing need could not reasonably be satisfied elsewhere such as within Glasson village itself.

7.2.8. In light of National Policy Objective 19 of the NPF which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of a demonstrable economic or social need to live in a rural area while having regard to the viability of smaller towns and rural settlements, the proximity of the village of Glasson, Athlone town and other nearby settlements, and notwithstanding the submissions on file indicating the applicant's familial links to the wider area, it is my opinion that the applicant does not come within the scope of

either the economic or social housing need criteria set out in the overarching national guidelines. In effect, I am unconvinced that the applicants' needs cannot be satisfactorily accommodated elsewhere such as within Glasson Village or any of the designated settlements in the wider area having regard to the need to support the viability of towns and settlements as per Objective 19 of the NPF.

7.3. Overall Design & Layout / Visual Impact:

- 7.3.1. In terms of assessing the visual impact of the proposed development, it is of relevance in the first instance to note that the subject site is located within the Lough Ree & Shannon Corridor Landscape Character Area (LCA) as detailed in Map No. 68: '*Westmeath Landscape Character Areas*' of the Development Plan. Section 13.12 of the Plan states that this LCA is of significant conservation value (in reference to the presence therein of Special Protection Areas, Special Areas of Conservation and Natural Heritage Areas) while the Shannon River and Lough Ree are important in terms of their recreational and amenity value, as well as their natural heritage importance, and thus the quality of these assets must be protected. It is further stated that as development pressure increases around the lakeshore and floodplain, the risk of landscape deterioration also increases.
- 7.3.2. In addition to the foregoing, it should be noted that the lands to the immediate south of the application site (on the opposite side of the Old Coach Road) and beyond form part of the Waterstown Lough High Amenity Area as designated by the County Development Plan. In this regard, I would suggest that notwithstanding the fact that the site lies outside of the 'High Amenity' designation, it nevertheless contributes to the appreciation of that landscape and is in an area of some scenic attractiveness by reference to its location within the Lough Ree & Shannon Corridor Landscape Character Area.
- 7.3.3. More generally, the landscape character assessment policy objectives of the Development Plan aim to ensure that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area; ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape in the assessment of development proposals; ensure that development reflects and, where possible, reinforces, the distinctiveness and sense of place of the landscape character types;

and require a Landscape and Visual Impact Assessment for proposed developments with the potential to impact on significant landscape features.

- 7.3.4. In a local context, the wider surrounds of the application site are characterised by an undulating rural landscape, however, there is a considerable proliferation of piecemeal one-off housing and linear-type development in the area, with particular reference to the row of 5 No. dwelling houses constructed on contiguous sites along Local Road No. L1437 further north on lands which are likely to have formed part of the same original landholding as the subject site.
- 7.3.5. The site itself forms part of a larger agricultural field and occupies an elevated hillside position on lands that rise sharply over Local Road No. L1437 from where it enjoys expansive views to the north / northwest. With the exception of the northernmost perimeter (which is not physically defined at present), the site boundary generally encompasses a combination of mature trees and hedgerows, although the wider field of which the site forms part is bounded in full by planting / landscaping of various maturity.
- 7.3.6. The proposed development provides for the construction of a split-level, single-storey dwelling house based on an 'L'-shaped plan, the design of which broadly adheres to the basic principles set out in Objective CPO 16.32 of the Development Plan through its use of features such as narrow plan forms, vertically emphasised fenestration, and differing ridge heights etc. in an effort to break the massing of the construction. However, the proposal will be sited on a more elevated section of the wider field and although the field boundaries and other intervening landscape features (including the supplementary planting proposed) will serve to screen the development in part, the likelihood is that the construction will be readily visible from vantage points in the wider area (particularly on the approach along the L1437 from the west and from the minor roadway which extends eastwards from the nearby crossroads). Notably, the elevated nature of the site relative to the lower road level and its wider visibility informed the previous decision of the Board to refuse permission for development at this location (PA Ref. No. 991221 / ABP Ref. No. PL25.117225) on the grounds that it '*would detract from the visual amenities and scenic character of the area and would militate against the preservation of the rural environment*'.

7.3.7. Having considered the foregoing, it is my opinion that the elevated hillside location of the proposed development, when combined with the site clearance & excavation works required to accommodate the proposal, will serve to increase the overall prominence and visibility of the construction given the prevailing topography, particularly when viewed from vantage points to the north & east and along the public road. When taken in combination with the site location in an area of scenic character and of a higher landscape sensitivity / amenity value by reference to its inclusion within the Lough Ree & Shannon Corridor Landscape Character Area, I am not satisfied that the proposed development would not detract from the visual amenity and scenic quality of the surrounding landscape. Furthermore, I would have wider reservations as regards the visual impact and the gradual erosion of the rural character attributable to the development of one-off piecemeal housing in this landscape and the developmental pressures arising from the proximity of urban centres such as Athlone town.

7.3.8. While I would acknowledge the appellant's concerns as regards the precedent for further development on the remainder of the landholding and the associated impact on the residential amenity of the adjacent properties to the north, the subject proposal has sought to avoid being categorised as 'backland' by availing of access via the Old Coach Road' with the intervening lands to be retained in agricultural use.

7.4. Traffic Implications:

7.4.1. The proposed development is to be accessed via a new entrance arrangement (in place of an existing field gate) onto an adjacent laneway known locally as the 'Old Coach Road' over which the applicant (and his predecessor i.e. the applicant's father, Mr. Malachy Buckley) purportedly has an established right of way. The concerns raised in the grounds of appeal as regards this arrangement are twofold and can be broadly summarised as follows:

- The applicant's legal right or entitlement, if any, to access the proposed development via the existing laneway / 'Old Coach Road'.
- The appropriateness of the proposed access arrangements given the overall condition of the existing laneway and wider traffic safety concerns.

I propose to consider each of these issues in turn.

7.4.2. The applicant's legal right or entitlement, if any, to access the proposed development via the existing laneway / 'Old Coach Road':

From a review of the available information, it would appear that the existing laneway known as the 'Old Coach Road' is not a public road in the charge of the Local Authority but rather comprises a private roadway / laneway primarily used by local landowners for agricultural purposes and over which there is a historical public right of way. In this respect, and notwithstanding the presence (or not) of any public right of way over the laneway, the applicant has also asserted that he is the beneficiary of an established right of way over the 'Old Coach Road' given its historical usage for the purposes of accessing the subject lands via an existing field entrance. However, the appellant has sought to dispute the applicant's claim of an established right of way on the basis that the existing field gate (which occupies the same approximate position as the proposed site entrance) has been sealed off with barbed wire for at least 17 No. years thereby demonstrating an absence of use. It has been further submitted that to the appellant's knowledge (as a regular user of the laneway), the applicant's father has never used the entrance in question and that access to the site has historically been obtained across the wider field via an alternate gateway leading directly to / from Local Road No. L1437.

7.4.3. With respect to the issue of whether the applicant has the benefit of an established / historical right of way over the existing laneway, it should be noted that it is not the function of the Board to adjudicate on such matters. 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. Instead, for the purposes of the lodgement of a planning application, it is only necessary for an applicant to assert sufficient legal estate or interest to enable them to carry out the proposed development or so much of the proposed development as relates to the property in question. In this regard, I note that the applicant has submitted a Statutory Declaration sworn by his father before a practising solicitor which asserts the existence of a right of way from the public road to the west over the existing laneway as far as the site entrance and, in my opinion, this is a sufficient basis on which to assess the application. In any event, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that *'A person shall not be entitled solely by reason of a permission under this section to*

carry out any development' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property interests. It is not the function of the Board to adjudicate on property disputes and should a party consider that any grant of permission cannot be implemented because of legal or title issues, then Section 34(13) of Act is relevant.

7.4.4. Notwithstanding the veracity of the applicant's claim to an established right of way over the laneway, cognisance should also be taken of any public right of way along the 'Old Coach Road' which could potentially allow for access to the development in the manner proposed. Although this particular section of the 'Old Coach Road' is not identified as a public right of way in Appendix 6: '*List of Public Rights of Way*' of the Development Plan, it should be noted that this list is not exhaustive and is intended to be added to during the lifetime of the Plan while both the applicant and the appellant would seem to accept the existence of a historical right of way over the laneway.

7.4.5. Therefore, on the basis of the foregoing, I am satisfied that a sufficient case has been made by the applicant as to his entitlement to access the subject site via the 'Old Coach Road' for the purposes of assessing this application.

7.4.6. **The appropriateness of the proposed access arrangements given the overall condition of the existing laneway and wider traffic safety concerns:**

In my opinion, the more pertinent issue from a traffic safety perspective is the substandard condition of the laneway over which the proposed development is to be accessed. The submitted proposal seeks to access the site from the west over the 'Old Coach Road', however, I would have serious reservations as regards the substandard width, surface treatment and general condition of the laneway along the entirety of its length between the application site and the public road. The laneway itself effectively amounts to a narrow hardcore agricultural track in parts, is extensively potholed and lacking surface treatment, and is characterised by a grassed strip running along the centre of the carriageway with only limited opportunities for two vehicles to pass side-by-side. The proposal as submitted is reliant on traversing a considerable length of a laneway which would appear to be used primarily by agricultural vehicles and which is wholly unsuited to normal domestic traffic. Although the applicant's response to the grounds of appeal suggest

that the carriageway will be upgraded to a suitable standard so as to improve the laneway for both the applicant and other landowners, no details of these works have been provided and it is unclear as to whether the applicant would have sufficient legal interest to undertake any such works (which could in themselves detract from the historical character and usage of the 'Old Coach Road'). Therefore, the proposed development is unacceptable from a traffic safety perspective.

(By way of clarity, I would advise the Board that the dwelling house approved on those lands to the west of the subject site under PA Ref. No. 157084 included for a new entrance arrangement onto the L1437, although a secondary (and seemingly agricultural access) has been opened onto the laneway / 'Old Coach Road').

- 7.4.7. Although it would be possible to access the site via that section of the 'Old Coach Road' which extends westwards from its junction with Local Road No. L1437, I would continue to have concerns as regards the substandard condition of this stretch of the laneway while the sightlines at the junction onto the main carriageway are seriously deficient with the result that any increase in traffic turning movements would likely endanger public safety by reason of traffic hazard. Notably, the applicant has not sought to access the proposed development from the L1437 to the east (perhaps due to the absence of a right of way), however, it is unclear as to how access via this route could be controlled / precluded.

7.5. **Wastewater Treatment and Disposal:**

- 7.5.1. The proposed development includes for the installation of a packaged wastewater treatment system with a pumped polishing filter and, therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the disposal of treated effluent to ground as proposed. In this respect, I would refer the Board to the Site Characterisation Form submitted with the application which details that the trial hole encountered 600mm of compact CLAY topsoil which overlay 1,500mm of loose SILT / CLAY with plentiful stone to the depth of the excavation at 2.1m below ground level. Water ingress was recorded at 600mm below ground level although this is not identified as the water table. No rock was encountered. With regard to the percolation characteristics of the underlying soil, a 'T'-value of 17.53min / 25mm and a 'P'-value of 16.11min / 25mm were recorded which would constitute a pass in accordance with the EPA Code of Practice. When taken in

combination with the supplementary information provided in support of the application, it has submitted that the site is suitable for the installation of a packaged wastewater treatment system with a polishing filter and that adequate separation can be achieved between the bottom of the filter and the invert level.

- 7.5.2. Notwithstanding the wider suitability of the site for the wastewater treatment system proposed, broader concerns arise as regards the concentration of individual septic tank / wastewater treatment systems in the immediate surrounds. In this regard, it is of relevance to note that Objective CPO 10.99 of the Development Plan aims to *‘Protect against development proposals, involving individual treatment systems, which would increase effluent loading within existing housing clusters located within areas of high groundwater vulnerability’*. Although the submitted Site Characterisation Form has correctly identified the site as overlying a *‘Locally Important Aquifer’* where the bedrock is *‘Moderately Productive only in Local Zones’*, it has mistakenly referred to the site as having a *‘High’* groundwater vulnerability despite the National Groundwater Vulnerability Mapping available from the Geological Survey of Ireland detailing an *‘Extreme’* groundwater vulnerability rating (as shown in the National Groundwater Vulnerability Mapping included as part of the site characterisation report). Given this vulnerability rating, and noting the absence of clarity as regards the servicing of those domestic properties located down-gradient of the application site (*N.B.* Although the property to the west and the proposed development are / will be served by private wells, and while the observers’ dwelling would also appear to rely on a private water supply, it is unclear how many of the dwellings along the L1437 are served by bored wells or are connected to the public water supply), I would have concerns that, when taken in conjunction with existing development in the vicinity, the submitted proposal would result in an excessive concentration of development served by individual septic tanks and / or wastewater treatment systems and thus would pose a risk of water pollution / contamination to the effect that the proposed development would be prejudicial to public health.

7.6. **Appropriate Assessment:**

- 7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that

the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to:

- a) the location of the site within a rural area identified as being under strong urban influence in accordance with the 'Sustainable Rural Housing Guidelines for Planning Authorities' published by the Department of the Environment, Heritage and Local Government in April, 2005;
- b) National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements,
- c) the provisions of the Westmeath County Development Plan, 2021-2027 which provide for consideration to be given to the development of rural housing in areas under strong urban influence for those with a definable social or economic need to live in the open countryside,

the Board is not satisfied, on the basis of the information submitted with the application and the appeal, that the applicant comes within the scope of either the economic or social housing need criteria. The proposed development, in the absence of any identified locally based need for the house at this location, would result in a haphazard and unsustainable form of development, would contribute to the encroachment of random rural development in the area,

would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would undermine the settlement strategy set out in the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users due to the additional traffic movements that would be generated onto the minor laneway directly serving the site which is seriously substandard in terms of width, alignment and structural condition. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. It is considered that, when taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by individual wastewater treatment systems in the area. The proposed development, would, therefore, be prejudicial to public health.
4. Having regard to the site location within the visually sensitive Lough Ree & Shannon Corridor Landscape Character Area as designated in the current Westmeath County Development Plan, 2021-2027, it is considered that the proposed development by reason of its prominent hillside position, and the nature and extent of the works concerned, would be detrimental to the scenic amenity value of the area and would be unduly visually obtrusive thereby interfering with the character of the surrounding rural landscape. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

23rd May, 2022