



An
Bord
Pleanála

Inspector's Report

ABP-311464-21

Development	Outline permission for house with garage, wastewater treatment system & percolation area. Associated site works.
Location	Carricknashanagh, Monasterboice, Co Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	21897
Applicant(s)	Laura Finnegan.
Type of Application	Outline Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Laura Finnegan.
Observer(s)	No Observers.
Date of Site Inspection	22 nd March 2022.
Inspector	Elaine Sullivan

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.302ha and is located within the rural townland of Carricknashanagh, which is approximately 3.5km to the south-east of the village of Monasterboice. The site forms part of an open field along the northern side of the L6286 local road. The surrounding area is characterised by agricultural lands with intermittent one-off housing and agricultural development directly to the south of the site and along the L6286 to the east and west.
- 1.2. The land in the area slopes to the north which puts the site at a slightly lower level than the road. There are uninterrupted views across the site to the north, east and west due to its open nature and its elevated position. Towards the front of the site, the field is open and undulating in nature with furze and groundcover towards the back of the site. There are no defined boundaries within the field or around the site and the site does not have an existing access to the public road. Along the roadside boundary, an open ditch runs behind a grass verge with a low-level hedge behind.
- 1.3. Directly to the south of the site, there are five detached houses on their own sites. The house directly opposite the site is unfinished with no visible construction activity on the site on the occasion of the site visit. The most recent planning history for this site was for an extension of duration which expired on the 11th January 2017, (PA Ref. 11/508), with permission to retain alterations granted on the 16th March 2016 under PA Ref. 15/798.
- 1.4. Planning permission was recently granted on a site adjoining the subject site, under Ref. 18/269, for the construction of a single storey house with garage and new wastewater treatment system. Construction has not yet commenced on that development.

2.0 Proposed Development

- 2.1. Outline permission is sought for a detached dwelling on a rural site with access from the L6286, local road. The development would also include a new vehicular access from the L6286, an on-site wastewater treatment system with percolation area and a detached garage. A new private well is also proposed.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority, (PA), decided to refuse permission for two reasons.

1. The proposed development by reason of its location on site and the open and exposed nature of the proposed site with a lack of natural screening or shelter would appear unduly prominent and together with the dwelling granted planning permission under planning reference 18/629 immediately to the west, would result in an intrusive encroachment of physical development into the open rural landscape and would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. As such, the development is contrary to the policies SS25 and SS26 of the Louth County Development Plan 2015-2021. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The applicant has failed to demonstrate to the satisfaction of the Planning Authority that the proposed wastewater treatment system (wwts) serving the proposed development complies with the EPA Code of Practice, 2021 and would be prejudicial to public health. Therefore the development would contravene Policy SS 65 of the Louth County Development Plan 2015-2021 and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer, (PO), dated the 2nd September 2021 informed the decision of the PA and included the following:

- The principle of the development is acceptable for the site.
- The applicant has satisfied the local need criteria as set out in Criteria 2 of Development Zone, and also complies with Policies SS18 & SS19 of the LCDP 2015-2021.

- Design details have not been submitted as the application is for outline permission.
- The proposed development is in an open field that has no natural vegetation or shelter. In order to achieve visual splays, the entire roadside would be removed.
- The proposed development would be unduly prominent, obstructive and inappropriate in this unspoilt rural landscape and would have an adverse visual impact on the rural area.

3.2.2. Other Technical Reports

- Infrastructure Section – There is no objection to the development subject to planning conditions which relate to the provision of adequate sightlines, boundary treatments and surface water drainage.
- Environment Section – Further information is requested with regard to the EPA COP site characterisation form, which is outdated and not in accordance with the 2021 Code of Practice for Domestic Wastewater Treatment Systems.

3.3. Prescribed Bodies

- No referrals.

3.4. Third Party Observations

No observations were received by the PA.

4.0 Planning History

There is no planning history for the subject site.

On the adjoining site to the west:

18/629 – Planning permission granted on the 4th July 2019 for the construction of a detached, single storey house with detached garage and new wastewater treatment system.

15/313 – Outline permission granted by the PA on the 30th July 2015 for the construction of a detached, single storey house with detached garage and new wastewater treatment system.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Louth County Council. The operative Development Plan for the area is the Louth County Development Plan, (LCDP), 2021-2027, which came into effect on the 11th November 2021.
- 5.1.2. The application was assessed by Louth County Council in accordance with the policies and objectives of the LCDP 2015-2021, which was the operative Development Plan at the time.
- 5.1.3. On review of the contents of both plans I note that there are no material changes between the 2015 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal. In this regard I will consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the LCDP 2021 – 2027.
- 5.1.4. The PA's decision to refuse planning permission for the development stated that the development would contravene a number of policies in the LCDP 2015-2021. In the interests of clarity these policies are listed as follows:
- SS25 - To require that applications for one-off houses demonstrate compliance with the Development Management Assessment Criteria for One-Off Rural Housing as detailed in Section 2.19.7.
 - SS26 - To require that the design and siting of the proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. In this regard, applicants will be required to demonstrate that the proposal is consistent with the document Building Sensitively and Sustainably in County Louth and the guidelines contained in Section 2.20.

- S65 - To protect groundwater and surface water from contamination from domestic effluent by ensuring that all sites requiring individual waste water treatment systems are assessed by suitability qualified persons in accordance with the recommendation contained in the “Code of Practice: Wastewater Treatment Systems for Single Houses”, published by the Environmental Protection Agency (EPA), 2009.

5.1.5. The following sections of the LCDP 2021-2027 are relevant to the proposed development;

Zoning / Designations

- The subject site is located in a rural area which is designated as Rural Policy Zone 2, which is a rural area under strong urban influence, (Maps 3.1 & 3.2).

3.17.4 – Rural Generated Housing Need

The rural housing policy for Louth requires that applicants for houses in the open countryside, (outside of the settlements in Levels 1-5), comply with the qualifying criteria for the specific Rural Policy Zone that is the subject of the application.

The subject site is located in Rural Policy Zone 2 – Area Under Strong Urban Influence, (Map 3.2, LCDP).

The Qualifying Criteria for new houses in Rural Policy Zone 2 include the following:

1. Persons engaged in full time agriculture.
2. A person whose business requires them to reside in the local area. The nature of the operations of the business shall be specific to the rural area.
3. Landowners including their sons and daughters who have demonstrable social or economic ties to the area where they are seeking to build their home
4. A person who is seeking to build their first house in the area and has a demonstrable economic or social requirement to live in that area. Social requirements will be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County prior to making an application.

5. An emigrant who was resident of the area (previously resided in the area for at least 18 years in total) and wishes to return to the area to live.
6. Persons who are required to live in a rural area, for exceptional health reasons.
7. Residents who have demonstrable social ties to the area and are providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them.
8. A person who has been a resident for at least 10 years that previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate a social or economic need for a new home in the rural area.

Section 13.9 – Housing in the Open Countryside

The following should be considered when assessing proposals for new housing in the countryside:

- Integration into the surrounding landscape.
- The ability of the landscape to absorb new development.
- Over-proliferation of one-off houses.
- Capacity of local road network.
- Whether the development would create or extend ribbon development.

13.16.17 – Entrances and Sightlines

Table 13.13 – Minimum Visibility Standards for new Entrances – requires sightlines of 75m from new entrances opening onto local roads with a 3m set-back from the edge of the carriageway.

The following Policy Objectives are of relevance to the proposed development:

HOU 47 - To require applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in the Open Countryside' or Section 13.19.9 if the site is located within the Brú na Bóinne UNESCO World Heritage Site, the Tentative World Heritage Site of Monasterboice, or the Battle of the Boyne Sites.

CS 19 - To strengthen and rejuvenate the fabric of rural villages and create sustainable rural communities to meet rural generated housing needs and alleviate the need for one off rural housing in the open countryside.

CS 20 - To direct rural generated housing demand to rural villages and rural nodes in the first instance and ensure that one off housing in the open countryside is only permitted where there is demonstrable compliance with the criteria for rural housing as provided for in the Development Plan.

CS 21 - To promote, support and facilitate the re-use of under-utilised or vacant lands, or lands identified for regeneration, through a co-ordinated approach to active land management between the Council and stakeholders.

IU 18 - To require that private wastewater treatment systems for individual houses where permitted, comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).

IU 19 - To require the use of Sustainable Drainage Systems to minimise and limit the extent of hard surfacing and paving and require the use of SuDS measures be incorporated in all new development (including extensions to existing developments). All development proposals shall be accompanied by a comprehensive SuDS assessment including run-off quantity, run off quality and impacts on habitat and water quality.

5.2. National Guidance

5.2.1. Sustainable Rural Housing Guidelines for Planning Authorities, (DEHLG 2005).

The subject site is located within an Area Under Strong Urban Influence. The key Development Plan objective for these areas should be to facilitate the housing

requirements of the rural community as identified by the Planning Authority whilst also directing urban generated development to areas zoned for new housing development.

5.2.2. **National Planning Framework - 2040**

National Policy Objective 19 - Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2.3. **Eastern & Midland Regional Assembly; Regional Spatial & Economic Strategy, 2019-2031.**

RPO 4.80 - Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **Natural Heritage Designations**

5.3.1. No designations apply to the subject site.

5.4. **EIA Screening**

5.4.1. The proposal relates to an outline permission for a detached house with on-site waste-water treatment system and bored well within a rural area. While no precise

details of specific works have been provided, the proposed development is not of a scale for which mandatory Environmental Impact Assessment is required.

- 5.4.2. Regarding sub-threshold assessment, having regard to the limited nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment. 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 ground of appeal include the following;

- With regard to the reason for refusal which relates to the open nature of the site, the appellants brother will be building a house, (Ref. 18/629), on the adjoining site to the west and will plant a new hedge / trees along the site boundary. The appellant would do the same for her site.
- Both of the sites are owned by the appellant's uncle and have been gifted by him. Other sites within the landholding were considered but this one was the best option and the least intrusive on the landscape.
- The appellant has intrinsic connections to the area and grew up on the Harestown Road, which is a ten-minute walk from the site. Her parents, grandparents and extended family are all from the area and live locally. She is a member of the local GAA club and has played with them since she was a child. She would like to live locally and in close proximity to her parents as they get older.

6.2. Planning Authority Response

A response from the PA was received on the 7th October 2021 and included the following;

- The PA considers that the proposal would be unduly prominent, obtrusive and inappropriate in this unspoilt rural landscape, notwithstanding the proposed landscaping.
- The application site has no screening or shelter and would result in significant visual impact and would be contrary to policies SS25 & SS26 of the Louth County Development Plan 2015-2021.
- The applicant is considered to have provided sufficient evidence to satisfy the local need criteria.
- The PA considered that there is no materially new information submitted in the appeal that would warrant a reversal of the PA's decision.

6.3. Observations

- No observations received.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of Development
- Siting & Design
- Waste Water & Drainage
- Access
- Appropriate Assessment

7.2. Principle of Development.

7.2.1. The applicant applied for planning permission under Criteria 2 of Development Zone 5 in the LCDP 2015-2021. This requires that *'they have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application'*.

- 7.2.2. Rural housing policy is set out in Chapter 3 of the LCDP 2021-2027. The current Development Plan has changed how rural areas are categorised and the subject site is now forms part of Rural Policy Zone 2. Table 3.5 sets out the Local Housing Need Qualifying Criteria in Rural Policy Zone 2. Under the criteria outlined, the applicant could qualify under Criteria 4 – *‘A person who is seeking to build their first house in the area and has a demonstrable economic or social requirement to live in that area. Social requirements will be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County prior to making an application’*.
- 7.2.3. In order to demonstrate ‘local housing need’, the applicant provided the following information: a map showing the location of the family home, confirmation that she does not own a house in the area, letter of consent from landowner, proof of residence and school records from the local primary school, letters from local GAA club confirming membership, supporting tax and bank documentation confirming residence in the local area. The applicant’s current address is stated as Brownstown, Monasterboice, which is approximately 2.5km from the subject site.
- 7.2.4. The information submitted with the application does not state if the applicant has any economic ties to the rural area or if their work requires that them to live in the countryside rather than any nearby settlement. Whilst the applicant has demonstrated intrinsic connections to the area, I am not satisfied that she has demonstrated that there is a specific social or economic need to live in the area as required by NPO 19 of the National Planning Framework.

7.3. **Siting & Design**

- 7.3.1. The subject site forms part of an open field within a rural landscape and has extensive views across the countryside to the north, east and west. The Landscape Character Assessment, (LCA), for Louth 2002 indicates that the site is located within the ‘Uplands of Collon and Monasterboice’. Although the maps in the LCA are not very detailed, the description of this area contains a reference to Carricknashannagh, and states that one of the key characteristics of this landscape is that *‘The landscape in the Brownstown and Carricknashannagh areas display small*

fields with and loose stone wall elements similar to the west of Ireland landscapes’.

In the LCDP 2021-2027, Table 8.5 identifies the ‘Uplands of Collon and Monasterboice’ as an area of Regional Importance.

- 7.3.2. As the application relates to outline permission, the proposal does not include any details regarding the built form or external finishes. The dwelling would be set back from the site boundary by c. 30m and would be centrally positioned within the site. It is proposed to plant a native hedge along all boundaries with tree planting to the front and rear of the site. There is no access to the site from the public road and in order to provide adequate visual splays, it is proposed to remove the existing front boundary and to set it back by c. 3m.
- 7.3.3. Although the proposal would include some screening by way of hedges and trees, I am not satisfied that this would be sufficient to mitigate against the visual intrusion within the landscape. Given the natural the topography of the site which is undulating with a gentle slope to the north, the proposed house would be a prominent and obtrusive feature within the open landscape. A new dwelling in this location would result in a negative visual impact on the surrounding area and would permanently alter the character of the rural area.

7.4. Waste Water & Drainage

- 7.4.1. It is proposed to install a new packaged waste-water treatment system with percolation area to the rear of the site. A new well would be sunk along the eastern boundary of the site with an indicative distance of c. 3.5m from the side of the house. A soakaway would be installed to the rear of the house to attenuate surface water drainage.
- 7.4.2. The PA has stated that the wrong site characterisation form was used and as such the relevant information was not submitted. The EPA Code of Practice 2021, (2021 CoP) replaced the 2009 Code of Practice, (2009 CoP), in June 2021. However, the 2021 CoP states that, *‘This CoP replaces the previous Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) issued in 2009. This CoP applies to site assessments and subsequent installations carried out on or after 7th June 2021. The 2009 CoP may continue to be used for site assessments*

and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date'.

- 7.4.3. The Soil Characterisation Form submitted with the application states that the trial holes and percolation tests were carried out on the 30th March 2021. Therefore, I am satisfied that the 2009 form can be used to assess the suitability of the site and that the information submitted can be assessed against the 2009 CoP and the 2021 CoP.
- 7.4.4. The subject site is located within a Pu – Poor Aquifer with bedrock that is generally unproductive with a high vulnerability. The groundwater protection response for the site was R2¹ – which is acceptable subject to normal good practice as per Table B2 of the 2009 CoP and Table E1 of the 2021 CoP. The trial hole was dug to a depth of 2.1m and no groundwater or bedrock was encountered. The T-test returned a value of 47.48 min/per 25mm. The results were assessed against Table 6.3 of the EPA CoP 2009 which states that the site is suitable for a septic tank system or a secondary treatment system discharging to groundwater. The results of the P-test returned a value of 38.82 min/ per 25mm, which indicates that the site is suitable for a secondary treatment system with polishing filter.
- 7.4.5. The test results were also assessed against Table 6.4 of the 2021 CoP which sets out the suitable percolation values to accommodate different design options. When assessed against Table 6.4, the percolation values for the site were within the range that would be suitable for a septic tank and percolation area, and a secondary treatment system and soil polishing filter. I am satisfied that the characteristics of the site would be suitable to accommodate the wwts proposed and that the test results are in accordance with the parameters as set out in the EPA 2021 CoP.
- 7.4.6. It is also proposed to sink a well on the site and to provide a surface water soakaway. The well would be located along the eastern boundary of the site and would be c. 33m up-gradient from the polishing filter. A diagram showing the location of and separation distances to neighbouring wells was submitted with the characterisation form. The separation distances between the proposed wwts and all sensitive receptors, including domestic wells, would be in excess of the recommended distances set out in Tables 6.1 and B.3 of the 2009 CoP and Tables 6.2 and E2 of the 2021 CoP. I note that the report of the Environment Section of the

PA requested further information with regard to the ground water on the site and in particular, the existing chemical and microbiological composition. This information could be submitted through compliance should the Board be minded to grant permission for the development.

- 7.4.7. Calculations for the size and capacity of the soakaway were included in the application and it was also stated that the soakaway would be designed in accordance with the requirements of the BRE Digest 365. The separation distance between the soakaway and the wwts is in excess of the minimum requirements of the 2021 CoP. However, the soakaway is located up-gradient to the infiltration area whereas the guidance recommends that the soakaway should be located down-gradient of the treatment area. I am satisfied that, given the site characteristic, that the design details could be agreed through compliance should the Board be minded to grant permission for the development.

7.5. Access

- 7.5.1. There is currently no access to the site from the main road and it is proposed to install a new vehicular access along the front boundary. Drawings submitted with the application show that sightlines of 75m in both directions can be achieved from the proposed vehicular access, (as required by Table 13.13 of the LCDP). On the occasion of the site visit, I observed unobstructed sightlines along the L6286 in both directions. Therefore, I am satisfied that a new vehicular access could be accommodated at the site and that it would not result in a traffic hazard.

7.6. Appropriate Assessment

- 7.6.1. The site is not located within or adjacent to any Natura 2000 sites. The closest designated sites are as follows;
- River Boyne and River Blackwater Special Area of Conservation, (Site Code 002299) - located approximately 7.3km to the south of the site.
 - The River Boyne and River Blackwater Special Protection Area (Site Code 004232) – approximately 7km to the south-west.

- The Boyne Estuary Special Protection Area, (Site Code 004080) – approximately 8.4km to the south-east.
- Clogher Head Special Area of Conservation, (Site Code 001459) – approximately 9.8km to the north-west.

7.6.2. There are no known waterbodies routing through the site and the site is at some remove from the designated sites overland. As such, I do not consider there is any source-pathway-receptor means by which potential pollutants could be transferred from the site to any Natura 2000 sites.

7.6.3. Having regard to the location, scale and nature of the proposed development and absence of any hydrological connection, it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be refused for the development.

9.0 Reasons and Considerations

1. Having regard to:

- The location of a site within a rural area under urban influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005.
- 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 demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements,

- The provisions of the Louth County Development Plan 2021-2027, which facilitates the provision of housing for local rural people in their local rural area, subject to the criteria outlined in Section 3.17.4 and,
- The documentation on file including the applicants historical and existing links with (the area),

the Board could not be satisfied on the basis of the information on the file that the applicant sufficiently demonstrated a social or economic need for a house at this location. As such the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the Louth County Development Plan 2021-2027. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site is located within the Uplands of Collon and Monasterboice, in an exposed rural area characterised by open fields with low-level ground cover. Having regard to the topography of the site and its exposed, open nature it is considered that the proposed development would result in a prominent and obtrusive feature in the landscape that would seriously injure the visual amenities of the area and would fail to be adequately absorbed and integrated into the landscape. It would therefore be contrary to Policy Objective Hou 47 and Section 13.9 of the Louth County Development Plan 2021-2027, which seeks to manage the development of rural housing in the open countryside to ensure that it does not negatively impact or erode the rural character of the area where it would be located.

Elaine Sullivan
Planning Inspector

29th March 2022