



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311966

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<b>Development</b>	Construction of house with attic accommodation, new entrance wastewater treatment system and associated works.
<b>Location</b>	Meenyvoughan, Brosna, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	21754
<b>Applicants</b>	Rachel and Jonathon Roche.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Liam Madden
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> April 2022.
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. This appeal relates to a site of .44 hectares located in a rural area c. 3km west of Brosna – a village close to the county boundary with Limerick. It is c. 17km northeast of Castleisland. Although at around 190mOD, the site is low lying compared to the undulating terrain in the wider landscape. The site fronts on to the north side of a local road of relatively straight alignment although curving northwards at a short distance east of the site. It is raised above the site.
- 1.2. The site is part of a field and the surrounding area is predominantly agricultural with extensive pockets of forestry. There is also a significant amount of one-off housing. There is an adjacent dwelling to the east that is screened from the site by leylandii.
- 1.3. There are some dilapidated sheds on the site close to the field access and a yard area with silage bales. Powerlines traverse the field.
- 1.4. During the inspection the trial hole was noted to be filled in. The vegetation on site included extensive reed clusters and there was also evidence of poaching.

## 2.0 Proposed Development

- 2.1. The application involves permission for the construction of a 209 sq.m. single storey dwelling house with attic accommodation and wastewater treatment system with a soil polishing filter.
- 2.2. The house is proposed at a setback distance of c.35m from the existing roadside .
- 2.3. The application is accompanied by a site characterisation form and in this, the site is identified as not being suitable for a septic tank.
- 2.4. Ancillary works include regrading of the site by lowering the site by 300mm on the eastern side towards the front (no sections provided), demolition of sheds (as clarified in further information drawing), blocking up a yard entrance and reinstating a ditch and planting with evergreen in addition to native tree planting along the northern and western boundaries.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Following receipt of further information and clarification of further information pursuant to a request for same, Kerry County Council, by order dated 21<sup>st</sup> October 2021 decided to grant permission subject to 16 conditions of a standard nature. Condition 4 restricts occupancy. Conditions 9, 10 and 11 relate to wastewater treatment. Condition 14 requires vehicular access to comply with details submitted on 6/7/21 and 29/9/21, [Note: the drawing is date stamped 17<sup>th</sup> September but the FI response was incomplete until 29<sup>th</sup> September following submission of meeting SAU requirements] in addition to particulars regarding height and angle of splayed entrance. Condition 16 specifies landscaping requirements.

### **3.2. Planning Authority Reports**

- 3.2.1. Planning Report: Further information was sought in respect sightlines and traffic, sheds on site and on the ground conditions for effluent treatment and discharge. This is based on the reports of the Roads Department and the Site Assessment Unit.
- 3.2.2. Initially the further information was not considered adequate having regard to the concerns of the SAU. Clarification was sought as the FI response was initially considered incomplete and the applicant then submitted a letter explaining how the SAU had been contacted and inspected the trial hole and sought its closure.
- 3.2.3. The submission of a drawing in response to the request for further information, which clarifies the demolition of the sheds and entrance sightlines of 90m as measured 2.5m from the edge of the road, was considered generally acceptable. There were no substantive issues arising regarding visual impact, road safety or residential amenity. The final report of the SAU notes that the trial hole was opened and is satisfied that wastewater treatment is no longer an issue subject to conditions. The planning report refers to the Rural Housing Policy in chapter 3 of the Development Plan, the siting in a 'general' rural area which is the least sensitive and in a 'Stronger Rural Area' where objectives RS-10 and RS 11 apply. No AA or EIA issues arise.

### 3.2.4. Other Technical Reports

County Archaeologist: No recorded monument in vicinity of proposed development.

Roads report: Further information required regarding sightlines and ambient traffic speed. Further Information considered incomplete.

SAU: Further information required: 'The SAU would have concerns with regards to the ground conditions on site and therefore request the applicant to excavate a new trial hole near the proposed polishing filter. The assessor/applicant shall inform the SAU and Planning authority in writing when the trial hole has been excavated and is available for inspection. To comply with the requirements of the EPA Code of Practice the trial hole should be left open for at least 48 hours prior to inspection. Trial holes are to be left open, covered and fenced off. The SAU will notify site assessor when the inspection has been carried out and trial holes are to be filled in following this notice.'

In a subsequent report no objection subject to conditions.

### 3.3. Prescribed Bodies

Irish Water: No objection – public mains is 1km away.

### 3.4. Third Party Objections

- 3.4.1. Liam Madden, Longford: raises concerns regarding design, flood risk, sightlines, proliferation of wastewater treatment systems and housing need.
- 3.4.2. Darren Roche, Tipperary: supports the proposed development having regard to modest design, visual amenity, biodiversity through native planting and community involvement with minimal environmental impact.

## 4.0 Planning History

- 4.1 None on site.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The Kerry County Development Plan 2015-2021 is the operative development plan. The house site is in a rural 'General' area which is the least sensitive in terms of landscape character and capacity to visually absorb development. In terms of settlement the site is in an area categorised as a Structurally weak area in Map 3.1.

5.1.2 Stronger rural areas (referred to as being applicable in the planning authority's appraisal) are areas typically characterised by a strong town and village structure and traditionally strong rural/agricultural economic base. The aim to achieve a reasonable balance between development of the towns and villages and the rural hinterland.

[Note: in the Draft Development Plan 2022-2028 Brosna is identified as a village and the area to the west is mapped as being 'under urban influence']

#### Rural Housing policy

5.1.3 **Structurally weak areas:** These areas generally exhibit characteristics such as persistent and significant population decline over an average of two census periods (2002-06-11). These areas have low population density averages and few planning application numbers. Many of these areas, by virtue of their location and topography are isolated. In these areas, the challenge is to stop sustained population and economic decline with a focus on both key villages and rural area

- RS12 - Accommodate demand for permanent residential development as it arises subject to good sustainable planning practice in matters such as design, location, waste water treatment and the protection of important landscapes and environmentally sensitive areas

5.1.4 **Stronger rural area:** generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong rural/agricultural economic base. The key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas.

- RS-10 Facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations
- RS-11 Consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban areas and villages and the wider rural areas.

#### 5.1.5 **Areas under urban influence**

- RS-7 Ensure that favourable consideration is given to individual one – off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to compliance with normal planning criteria and environmental protection considerations
- RS-9 Facilitate the housing requirements of the rural community as identified while directing urban generated housing into the towns and villages.

### 5.2. **Sustainable Rural Housing Guidelines for Planning Authorities**

- 5.2.1. In these guidelines, it is an overarching requirement for local need to be determined in assessing planning applications for rural housing.

### 5.3. **Natural Heritage Designations**

- 5.3.1. The nearest sites are:
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) c. 1.5km south
  - Lower River Shannon SAC (Site code 002165) c. 2km west

### 5.4. **EIA Screening**

- 5.4.1. The proposed development while of a class is substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the development, which is a single new dwelling and associated site works, the absence of features of ecological importance within the site, I consider that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A third party appeal has been lodged by Liam Madden (Longford) against the decision to grant permission. The grounds are based on the following:
- The further information lacks sufficient basis to be considered reasonable. The sightlines are not accurate or achievable.
  - There is no well-developed town or village structure in the area, Brosna is a hamlet.
  - Rural housing need is disputed as the applicants are not involved in the rural agricultural economy and simply have a desire rather than a need to live at this location.
  - The design lacks architectural merit – a refusal is the only means of minimising impact on landscape in accordance with section 12.2.1 criteria.
  - The area is characterised by extensive ribbon type development for people not engaged in the directly in agriculture.
  - The Board is requested to apply the National Planning Framework policy - specifically NPO 19 and as it did in the case of a dwelling in County Clare (ABP ref. 308829) – details of which are appended to the appeal.

### 6.2. Planning Authority Response

- 6.2.1. The Planning Authority in its response letter of 30<sup>h</sup> November 2021 has nothing further to add.

### 6.3. Applicant's response

- 6.3.1. The site is on parental land of one of the applicants and adjacent to his mother's homestead. He grew up 2km away where he is presently living at home with his parents. He was educated locally in Brosna and also represented his locality in sports and music - Brosna being renowned for Traditional Irish Music and festival events in which he is involved at committee level. His children attend both the local

national school in Brosna and secondary school in Castleisland c.20km away and they continue the music tradition at the local Comhaltas Branch. The applicants both work in software consultancy and operate from a home office.

- 6.3.2. They both farm a small holding adjacent to the parental home in Inchiapogh Brosna. Folio reference details are attached. (2.19 hectare holding) used for hay silage and suckler grazing.
- 6.3.3. The sightlines are understood to be acceptable having been verified by engineers in Kerry County Council.
- 6.3.4. Brosna is not a hamlet. The Church dates back to 1868 and is visited from far and wide,
- 6.3.5. It is emphasised that they live, work and educate their children in the area and only wish to have a home that they own in the area.
- 6.3.6. The houses in the area are modest family homes that are well maintained and are not eyesores. Their house design is similarly modest and respectful of the area. It is not pretentious.
- 6.3.7. The only eyesore is the site at present due to the dilapidated sheds as part of an old farmyard site. These sheds will be removed and the site will be rejuvenated.
- 6.3.8. The applicants are environmentalists with one having a geography degree. The site, through native planting, will enhance the biodiversity and will have a positive impact.
- 6.3.9. The house will be built with an aim for passive energy rating via air to water heat pump, heat recovery and solar pv.

#### 6.4. **Observations**

None

### 7.0 **Assessment**

#### 7.1. **Issues**

- 7.1.1. Having read the contents of the file and inspected the site the key issues relate to:
  - The principle of a rural housing having regard to rural housing policy and settlement strategy.



- Visual impact : House Design and ribbon development
- Site suitability: Wastewater treatment
- Traffic Safety
- Appropriate Assessment is also a mandatory consideration.

## 7.2. The principle of rural housing

- 7.2.1. Kerry County Council in its Development Plan (Section 3.3.1), while recognising the tradition of dispersed settlement, highlights that the scale of dispersed rural housing is unsustainable and uneconomical in terms of infrastructure provision and quality of life. The Objective RS-1 seeks to ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 and the development guidance document of this plan.
- 7.2.2. Policy Objective 19 of the National Planning Framework seeks to ensure that, in providing for the development of rural housing, 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, it is policy 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.2.3. In determining the nature of the housing need I note there is a variety of potential descriptions of the nature of settlement in the area and this is largely reflective of the census data and pattern of development at a point in time. For example the planning authority, in its appraisal, consider it to be in a stronger rural area whereas in Map 3.1 the site location falls into a structurally weak area. In the context of the national policy I consider the facts of the current situation have to be examined in order to ensure adherence to national policy. In this case the un-serviced site is in a rural area well outside an established village - being 3km from Brosna and almost 17km from Castleisland. The farm holding is in Inchiapogh alongside the applicant's parents and is c. 3.5km along the public roads to the north west (on the southern side of River Feale.) I note there is extensive one-off housing in the vicinity of the site as illustrated in the extract of the register map provided by the county council. I

also note Brosna is what I would describe as a large village with a network of streets incorporating a central open space in front of the church and some basic facilities including a post office and a national school. I further note that the Brosna area has been subject of an increasing number of applications for development and the census data would indicate a modest growth trend in the outlying areas (ED change 2011-2016) but decline in the Brosna village and environs indicating an unsustainable pattern of development away from the village. Having regard to the existing and emerging pattern of development and planning applications I accordingly consider there is evidence to indicate that the subject rural area is under development pressure and is a place of growth. This I note is supported in the current Draft County Development Plan which classes Brosna as a village in the settlement hierarchy and redefines the environs including that of the site as an area under urban influence.

- 7.2.4. In respect of the applicant's needs – while the applicant has strong social ties to the area, I do not consider the need for rural house that is removed from the intended farmlands 3.5km to the north west, that relies on daily services in Brosna 3km to the east and further afield and whose economic base is home-office based is justified in the context of national policy on settlement strategy and sustainable development. The nature of the dwelling would be one that is highly car dependant , would contribute to undermining the consolidation of Brosna village and would therefore contribute to an unsustainable pattern of development.
- 7.2.5. I also note that there are numerous houses for sale in the Brosna area and that development plan refers to the preference to prioritise a reduction in residential vacancy rates with an emphasis on re-use of existing building stock.
- 7.2.6. I consider that permission for a new rural house based on the nature of the need would serve to contribute to a pattern of development that would undermine the viability of towns and villages.
- 7.2.7. A grant of permission would I conclude conflict with Policy Objective 19 of the National Planning Framework and would be contrary to the proper planning and sustainable development of the area. I consider this is grounds for refusal.

### **7.3. Visual impact**

- 7.3.1. The applicant makes the case that the dilapidated sheds are to be demolished as clarified in further information and this will visually enhance the area and this I note is supported by the third party submission to the planning authority. While I accept the removal of dilapidated structures is welcome, the retention and restoration of such farm related structures would not be unduly incongruous with the rural agricultural character of the area. I do not consider the demolition of these structures to constitute grounds for a new dwelling.
- 7.3.2. In terms of the proposed design and objections to same, I note that the site is not in a sensitive area by reference to the Development Plan landscape classification as mapped and that the house is of modest design and scale and would not by itself contribute to a significant disamenity in visual terms – it is more so that the pattern of one-off houses in contributing to the suburbanisation of the countryside would militate against its preservation and in this way would be contrary to the proposed planning and sustainable development of the area. I consider this to constitute grounds for refusal.

### **7.4. Site Suitability – wastewater treatment**

- 7.4.1. This issue was not directly raised in the grounds of appeal however it is an issue related to the principal of rural housing. It was also an issue raised by the appellant in his submission to the planning authority and I consider it warrants further consideration in this appeal and does not amount to a new issue.
- 7.4.2. The proposal includes a domestic wastewater treatment system and a site characterisation has been submitted as part of the information. The proposal entails the installation of a proprietary wastewater treatment to serve the new dwelling. I note that the site is underlain by an aquifer classified as locally important with groundwater vulnerability indicated as being extreme. As part of the Site characterisation trial hole and percolation tests were carried out. The trial hole (2.7m) test detected the water table in the trial hole at 2.7m. The Site Assessment Unit of the planning authority raised concerns about the ground conditions which includes a poached surface and compacted clay and required that the trial hole be opened and available for inspection. This was requested and the applicant appears

to have made direct contact with the SAU and in the subsequent report of the 11<sup>th</sup> October, the SAU raises no objections to a grant of permission subject to conditions.

7.4.3. The trial hole remained filled during my site inspection and I could not verify the trial hole conditions. I note that the T tests and percolation values are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. Notwithstanding, the tests and the proposal to use a proprietary wastewater treatment system on site, I consider that having regard to the proliferation of domestic wastewater treatment systems in this rural area - 13 within 250m as indicated on the Form, the soil characteristics and to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-sewered rural areas, avoiding sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities, there are potential concerns regarding pollution. I am not therefore satisfied, on the basis of the information on the file, that the impact of the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. Permission should be refused on this basis.

## 7.5. **Traffic Safety**

7.5.1. This issue of sightlines and absence of information is raised in the grounds of appeal and traffic safety is also an issue related to the principal of one-off rural housing.

7.5.2. The Roads Division raised concerns about traffic safety having regard to the sightlines and ambient speed of traffic. Further information was accordingly requested to address the specific concerns. This does not appear to have been adequately addressed to the satisfaction of the Roads Division. I refer to the roads report of 5<sup>th</sup> October and the need for evidence of ambient speeds. I further note that the horizontal alignment to the east may restrict views and having regard to the frontage and neighbouring property together with the narrowness of the road, it is not entirely clear if the appropriate sightlines can be achieved and maintained. I further note the sunken drainage ditches flanking the narrow road which restricts pulling-in,

particularly in the event of passing farm related machinery and I would have general concerns about development that would intensify traffic on this tertiary road network. Permission should be refused on grounds of public safety.

## **7.5 Appropriate Assessment**

- 7.5.3. The nearest designated sites are the Lower Shannon SAC (Site code 002165) c. 2km west and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161) approx. 1.5km to the east. Having regard to the nature and scale of the proposed development and the distance from the said designated sites no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1 I recommend that permission be refused based on the following reasons and considerations.

### **Reasons and Considerations**

1. Having regard to –

(i) the location of the site in an area under development pressure and outside a village settlement,

(ii) 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,

(iii) The objectives of the Kerry County Development Plan, 2015 to 2021 and the which seek to discourage urban generated housing in rural areas and to direct the provision for housing into towns and villages ,

it is considered that the applicant has not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19. The proposed 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 contravene the provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

2. Notwithstanding the proposal to use a proprietary wastewater treatment system on site, the Board had regard to the proliferation of domestic wastewater treatment systems in this rural area, the surface ground conditions indicating poor drainage capability, the location of the site above an aquifer classified as locally important with groundwater vulnerability indicated as being extreme and to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-sewered rural areas, avoiding sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities. The Board could not be satisfied, on the basis of the information on the file, that the impact of the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The Board is not satisfied that that adequate sightlines can be provided and maintained having regard to the alignment of the road and the relationship with the property to the east. It is therefore considered that the proposed development would be prejudicial to public safety by reason of traffic hazard.

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Suzanne Kehely  
Senior Planning Inspector

5<sup>th</sup> July 2022