



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311976-21

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|-------------------------------------|------------------------------------|
| <b>Development</b>                  | Construction of dwelling house.    |
| <b>Location</b>                     | Feraghfad , Longford , Co Longford |
| <b>Planning Authority</b>           | Longford County Council            |
| <b>Planning Authority Reg. Ref.</b> | 21275                              |
| <b>Applicant</b>                    | Ronan Sheahan                      |
| <b>Type of Application</b>          | Outline Permission                 |
| <b>Planning Authority Decision</b>  | Refuse Outline Permission          |
| <b>Type of Appeal</b>               | First Party                        |
| <b>Appellant</b>                    | Ronan Sheahan                      |
| <b>Date of Site Inspection</b>      | 09/02/2022                         |
| <b>Inspector</b>                    | Dolores McCague                    |

## 1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Feraghfad, Longford, Co Longford, about 1km south east of the edge of Longford town, along a minor county road with an almost continuous line of one-off houses along either side. The roadside development, which includes the road frontage of the subject field, is of bungalows on c. ¼ ac (0.1ha) sites, with limited depth from the rear of each dwelling to the rear boundary. The road frontage of the subject site is c24m in width and this width is maintained as far as the end of the adjoining residential property to the south, where the field opens out.
- 1.1.2. To the north there is a farmyard with farmland to the rear. At about 86m from the road the northern boundary projects slightly southwards, then continues in a straight line west. At approx. 200m it meets the rear boundary, which is the townland boundary with Ballymakeegan. The western boundary of the site extends southwards for c215m along the townland boundary, and the eastern boundary runs to the rear of roadside residential development, to where the southern field boundary encloses the rectangular shaped site, encompassing 4.62ha. The site includes a rath/ring fort. Ground levels fall from the north west corner of the site east towards the road and towards the south. The location of the proposed dwelling, near the north-west corner, is at the highest point of the site.

## 2.0 Proposed Development

- 2.1.1. The development comprises the proposed erection of a dwelling house, installation of a wastewater treatment system with polishing filter, alteration to existing agricultural entrance to also serve the proposed dwelling house and all ancillary works.
- 2.1.2. The dwelling is proposed at the western end of the site, roughly opposite the public road/entrance. The dwelling is to be located c9m above road level. Water supply is to be taken from the public mains. A proprietary wastewater treatment system is proposed.
- 2.1.3. No details of the alteration to the agricultural entrance are provided.
- 2.1.4. No proposals are made for the remainder of the 4.62ha residential site.

- 2.1.5. The application was accompanied by land ownership maps and a letter from the landowner, the applicant's father.
- 2.1.6. A previous refusal of planning permission (21/70) to the applicant's brother, in the same location, but on a smaller demarcated site, is dated 28<sup>th</sup> April 2021.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The planning authority (PA) decided to refuse permission for 5 reasons:
- 1 lack of information regarding the recorded monument, would seriously injure the setting.
  - 2 effluent treatment and risk of pollution.
  - 3 excessive density and further pressure for community and public services which would be uneconomic to provide, contrary to CDP policy in HOU RUR 7.
  - 4 contrary to CDP policy in HOU RUR 3 to protect agricultural land.
  - 5 inappropriate backland development.

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

##### **3.2.1. Planning Reports**

The planning report recommending refusal includes:

- Applicants have indicated that the dwelling is for their own use.
- Site is indicated as 1.1ha, (this is an incorrect interpretation of the application details. In the previous application, 21/70, the site was 1.1ha).
- The proposed house is located along an excessively long access laneway which locates the proposed dwelling approx. 9m above the road level in a very sensitive and over developed area. The proposed development is considered backland development and inappropriate at this location.

- The site encompasses an area of archaeological potential: recorded monument LF00612—rath. No information or protection measures have been indicated.
- The site has a T value of 70.15 and a P value of 26.44. It is proposed to install a packaged wastewater treatment system.

### 3.3. Prescribed Bodies

TII – no observations.

IW – conditions.

### 3.4. Third Party Observations

- 3.4.1. A representation is referred to in the planning report but none was received in writing.

## 4.0 Planning History

Pre-planning meeting.

21/70 – smaller site within the subject site – proposed two storey dwelling – Conor Sheahan (brother of current applicant) & Lauren Farrell – refused for 4 reasons: effluent treatment, excessive density, policy HOU RUR 3, precedent. Details have been provided by the PA and are attached to the subject file.

The application details included that the then applicant works the land.

An observation on that file states that ‘the granting of permission by Longford County Council for this proposed development at this time would be in breach of an existing Court Order which has directed that there will be no further development of this nature at Feraghfad until such time that an adequate sewage disposal system is put in place. In the meantime, sewage and wastewater continue to flow into open drains at Feraghfad and has gone unchecked and unresolved by not providing a sewerage treatment plant to serve the townland of Feraghfad.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. Longford County Development Plan 2021-2027 is the operative plan. Relevant provisions include:

The rural typology map is based on 2 no. categories of rural areas: rural areas under strong urban influence and rural areas elsewhere.

This is within a Rural Area under Strong Urban Influence – these are areas which exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large towns within the county with evidence of considerable pressure for development of housing owing to their proximity to such settlements. The policy in these areas 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.

Objectives:

CPO 4.24 Accommodate demand from individuals for permanent residential development in defined 'Rural Areas Under Strong Urban Influence', subject to good planning practice, environmental carrying capacity and landscape protection considerations. Applicants seeking permission for the development of single dwelling rural housing in areas defined 'Rural Areas Under Strong Urban Influence' must satisfy the following criteria:

1. The applicant was born within the local rural area, or is living or has lived in the local rural area for a minimum of 5 years at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local

rural area. The 'Local Rural Area' for the purpose of this policy is defined as the area generally within an 8km radius of where the applicant was born, living or has lived. For the purpose of this policy, the rural area is taken to include 'Rural Settlement Clusters' listed in the Settlement Hierarchy, but excludes the Key Town, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Villages and Seived Rurak Villages listed in the Settlement Hierarchy.

2. The applicant has a functional economic or social requirement to reside in this particular rural area such as in any of the following 2 situations: (a) Economic requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. It includes persons involved in full-time farming, horticulture or forestry as well as similar rural-based part-time occupations where it can be demonstrated that it is the predominant occupation. (b) Social requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Social Requirement in County Longford shall be taken as compliance with point 1 above. Special consideration shall be given in cases of exceptional health circumstances - supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person. 3. The applicant does not already own or has not owned a house in the open countryside. 4. If the site is located within an Area of Special Control, there is no alternative site outside of Areas of Special Control. 5. High quality siting and design.

CPO 4.27 Assess residential development in rural areas on the suitability of the area in terms of its sensitivity, its ability to accommodate development in a sustainable manner and compliance with the relevant technical criteria.

CPO 4.29 Restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites, notwithstanding the applicant's compliance with the local need criteria.

CPO 4.30 Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the rural area.

CPO 4.32 Discourage ribbon development.

CPO 4.34 Only consider family members for backland development. The proposed development shall have no negative impact on third parties/ neighbouring property owners and viable sites with sufficient independent percolation areas will be required in order to meet technical guidelines. Sufficient screening will be required to screen the house from adjacent homes and this has to be in place prior to occupation of the house. Only single storey bungalow (including attic accommodation) type houses will be allowed in such backland locations to limit visual impact and overlooking.

## **5.2. Natural Heritage Designations**

- 5.2.1. The nearest protected site is Derrymore Bog pNHA (site code 000447), c0.6km to south, and the nearest Natura site is Mount Jessop Bog SAC (pNHA) (site code 002202), c6km to south west.

## **5.3. EIA Screening**

- 5.3.1. Having regard to nature and scale of the development and the location of the site 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**

- 6.1.1. The first party appeal was submitted by Liam Madden Architect on behalf of Ronan Sheahan. The grounds include:
- Re. reason no 1 - the national monument, the Board could attach a condition.
  - Re. reason no 2 - the PA (planning authority) has imposed a blanket ban on one-off ribbon development, suburban and urban generated houses in Feraghfad for c 25 years. This is arguably illegal, it has no basis in law or the County Development Plan.

- Re. defective septic tanks which gave rise to this blanket ban, it is unreasonable and unconscionable to make his client pay for others mistakes, including the mistake of granting permission. Indeed the rectifying of the defects is within the ambit, power and duty of the PA, which instead penalises his client for something not of his making. The site characteristics report shows that the lands are more than ample with adequate and safe drainage in the special circumstances that his client's site is c11.5ac.
- Re. reason no. 3 - excessive density, his client acknowledges that between 25 and 35 years ago this area experienced urban generated ribbon sprawl. The Council is to blame. His client wasn't born at that time.
- Re. reason no 4 – his client is not developing an urban generated one-off house. Re. protection of agricultural land, his client is a farmer and works these lands, all-in-all c110 acres. He is a newly qualified vet. He has demonstrated rural need.
- Re. reason no 5 - backland development, it is something of a joke. Farmer's houses on family farmland don't have to line up with ribbon development. By definition they are backland development. The siting of the house can be such as to create a cordon sanitaire around LD00612. The Board can condition a house type. His client is willing to sterilise the balance of the 11.5ha.
- Attached is a copy of unsolicited further information submitted after the decision was made, which was prior to the expiry of the period for making observations. it refers to the landownership of 65ac/26.3ha and the rented land of 45ac/18.2ha and provides maps from landdirect the PRA online service (land registry).

It should be noted that the land direct map of the land-holding does not correspond to the site map submitted with the application.

The unsolicited further information attached to the grounds states that the sterilisation of 11.5ac would indicate that it is not a floodgates application; and that there are no third party objections.



## 7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, validity of the application, planning policy, and the planning authority's refusal reasons, and the following assessment is dealt with under those headings.

### 7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 7.3. Validity of the Application

As previously noted, the application is for a 4.62ha site as outlined in red on the maps submitted. Accompanying the application the appellant supplied land maps from land direct of lands in family ownership, which do not correspond with the site map. A straight line western boundary, which is the current (but not former) townland boundary is indicated in the application as the site boundary. The map from landdirect follows an irregular boundary omitting a wooded area along the western / south-western end of the site, following a line similar to the former townland boundary. The question of ownership of part of the submitted site, therefore arises.

- 7.3.1. Written consent to the making of the application was supplied by the applicant's father. If lands are included which are not in his ownership a letter of consent from the landowner must be supplied. In the absence of consent or until such time as maps showing that the entire site area is owned by the applicant's father, permission should not be granted.

### 7.4. Planning Policy

- 7.4.1. The current county development plan Longford County Development Plan 2021-2027 came into effect on Tuesday 30th November 2021, during the course of the planning application.
- 7.4.2. Objective CPO 4.29 states:

Restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites, notwithstanding the applicant's compliance with the local need criteria.

7.4.3. The planning history of the site has not been documented, however the grounds of appeal refers to the 'mistake of granting permission' and the development which took place in Feraghfad 25 years ago. It is evident that there is almost no remaining road frontage to this land holding.

7.4.4. Objective CPO 4.30 states:

Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the rural area.

7.4.5. Loss of agricultural land is an important consideration in the assessment of a 4.62 ha house site. The sightlines at the existing farm access which is the only access to the Freaghfad lands is referred to in a letter supporting the application. It is also stated that the applicant would be happy to have the balance of the application site sterilised from further houses. It might be inferred, that an area of the subject site will be developed as a residential site, and an area will be devoted to farming, but this must be inferred. The application site as submitted is for a dwelling on the entire lands.

## 7.5. Refusal Reasons

7.6. Reason No. 1

7.6.1. Reason no 1 states that given the lack of information relating to the protected area, the proposed development could seriously injure the setting of the national monument, recorded monument LF00612, a rath.

7.6.2. The grounds of appeal states that the Board could attach a condition to deal with this matter.

7.6.3. A large rath / ringfort is located at the centre of the site where it crosses several field boundaries some distance from the proposed dwelling. The historic mapping and national monuments maps show that there are numerous historic features in the wider area, mainly raths. The rich archaeological setting is a consideration in the assessment of this application/appeal. A full assessment would require the

submission of an archaeological assessment prepared by an archaeologist and would potentially involve ground testing. The application was not referred to the National Monuments Service and no submission is available from them. The location of the proposed dwelling is some distance from the protected feature and the absence of information in relation to the protected area, as referred to in the reason, would have indicated a need for information rather than a refusal reason.

7.7. Reason No. 2

7.7.1. Reason No. 2 refers to effluent treatment and the risk of pollution. The very extensive site and the distance from other properties, together with the site characterisation report and effluent treatment proposals submitted, indicate that this should not be a reason to refuse permission.

7.8. Reason No. 3

7.8.1. Reason no 3 refers to excessive density and further pressure for community and public services which would be uneconomic to provide, contrary to CDP policy in HOU RUR 7. The policy provisions referred to are references to the previous development plan, nevertheless the remainder of the reason remains relevant.

7.9. Reason No. 4

7.9.1. Reason no 4 refers to the need to protect agricultural land and CDP policy HOU RUR 3. The policy provisions referred to are references to the previous development plan, nevertheless the remainder of the reason remains relevant and is referred to under a separate heading above.

7.10. Reason No. 5

7.10.1. Reason No. 5 refers to inappropriate backland development. The relevant objective in the current development plan is CPO 4.34

Only consider family members for backland development. The proposed development shall have no negative impact on third parties/ neighbouring property owners and viable sites with sufficient independent percolation areas will be required in order to meet technical guidelines. Sufficient screening will be required to screen the house from adjacent homes and this has to be in place prior to occupation of the house. Only single storey bungalow (including

attic accommodation) type houses will be allowed in such backland locations to limit visual impact and overlooking.

- 7.10.2. The requirement that the developer be a family member is complied with.
- 7.10.3. This is an application for outline planning permission for a dwelling of unspecified height or scale. The requirement for a single storey bungalow could be conditioned.
- 7.10.4. The proposed access driveway and dwelling have the potential to have a significant negative impact on adjoining residences, which could be mitigated by very extensive planting. Very extensive planting is not part of the application before the Board.
- 7.10.5. In my opinion the proposal would constitute inappropriate backland development which would have a negative impact on neighbouring property owners.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing I recommend that outline permission should be refused, for the following reasons and considerations.

## **9.0 Reasons and Considerations**

- 1 It is a stated zoning objective in the Longford County Development Plan 2021-2027 to strictly limit backland development and to ensure that it should have no negative impact on neighbouring property owners, The proposed development which would overlook the rear of existing dwellings, would have a negative impact on the residential amenities of those properties and would accordingly be contrary to the proper planning and sustainable development of the area.
- 2 Taken in conjunction with existing development in the vicinity, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would contravene the policy of the planning authority, as expressed in the current Development Plan, to direct residential development to serviced centres.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

11<sup>th</sup> May 2022

## **Appendices**

Appendix 1 Photographs

Appendix 2 Longford County Development Plan 2021-2027 extracts