



An  
Bord  
Pleanála

## Inspector's Report ABP-312079-21

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<b>Development</b>	Retention for house and permission for construction of septic tank and percolation area.
<b>Location</b>	Carrick, Curraghboy, Co. Roscommon.
<b>Planning Authority</b>	Roscommon County Council
<b>Planning Authority Reg. Ref.</b>	21505
<b>Applicant(s)</b>	Fiona Dolan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Fiona Dolan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> October 2022.
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. This appeal relates to a rural site located within the townland of Carrick to the north of the Village of Curraghboy in County Roscommon. The site is approximately 12km to the northwest of Athlone and 15km to the southeast of Roscommon Town. The appeal site is circa 360m south of Lough Funshinagh SAC Site Code 000611, a turlough and designated wildfowl sanctuary.
- 1.2. The site has a stated area of .229 hectares and is set back a considerable distance (c 900m) from the public road. Access is via a right of way over a private roadway running to the east of the Regional Road R362. This roadway serves an established farmhouse to the southwest of the site and farmlands. The final section of the access to the site is unsurfaced and is via an agricultural gateway adjacent to agricultural sheds and through a large field of which the appeal site forms the southeastern corner.
- 1.3. The appeal site is rectangular in shape and is occupied by a pitched roofed modular type structure with timber effect cladding and fire cement slates. A septic tank is installed to the rear (southeast) of the structure. The boundaries to the southeast and southwest are formed by trees and hedgerows whilst the northeastern and northwestern boundaries are undefined.

## **2.0 Proposed Development**

- 2.1. The application involves permission to retain dwelling unit and for construction of septic tank and percolation area on the site. The structure has a floor area of 145sq.m and details indicate that internal layout comprises 3 bedrooms, living room / kitchen at ground floor level and storage area overhead. It is proposed to install a septic tank to the northern side of the dwelling.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 1 November 2021 Roscommon County Council issued notification of the decision to refuse permission for the following reasons:

*“The development is located in a rural area identified as under urban influence as set out in Section 5.11 of the current County Development Plan. The Planning Authority is not satisfied, based on submissions received with this application, that the applicant meets the criteria for a rural generated house for this category area in accordance with the Sustainable Rural Housing Guidelines, and Table 5.3 of the County Development Plan, which would render the development contrary to Policy 5.29 of the County Development Plan. The Planning Authority is therefore not satisfied based on submissions received with this application that the development would be in accordance with the proper planning and sustainable development of the area.*

*The existing unit proposed for retention, by reason of the overall design concept and general design features and siting is incapable of integrating into the rural setting in which it is located. The development forms an inappropriate and obtrusive feature in the landscape, and is injurious to the visual amenity and landscape character of the area and, if granted, would set a precedent for other similarly inappropriately sited and designed dwellings in this area. The development contravenes the guiding principles of the Roscommon County Development Plan 2014-2020, particularly Section 9.8 of Chapter 9 – Development Management Guidelines and Standards and fails to have regard to the siting and design principles set out in the associated County Roscommon Rural Design Guidelines. The development is contrary to the proper planning and sustainable development of the area.*

*The subject development is dependent on a deficient and haphazard access arrangement which extends excessively through agricultural lands and agricultural structures, remote from the public road network and the acceptance of such an arrangement would set a precedent for similar inappropriate development of this nature elsewhere. In addition, the Planning Authority is not satisfied that the sufficient legal interest has been demonstrated to facilitate a right of way over lands outside the ownership / control of the applicant to the site for residential purposes. The proposal would therefore be injurious to the amenities of the area, would endanger public safety by reason of traffic hazard and would be contrary to the principles of proper planning and sustainable development.”*

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

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

Acting Senior Executive Planner’s report screens out the need for Appropriate Assessment. Ties to this local rural area have not been demonstrated. Road access

is considered disorderly, and a right of way has not been demonstrated. Notwithstanding the acceptability of the proposed wastewater treatment system the subject dwelling appears to be currently served by an unauthorised wastewater treatment system. Design is not in accordance with the guiding principles of the Rural Design Guidelines and the proposal would set a precedent for disorderly setback development with substandard access provision. Refusal recommended for three reasons.

Report is countersigned by Senior Planner's with modifications to refusal reasons.

### 3.2.2. Other Technical Reports

Environment report notes that the soil type evident from the trial pit excavation displayed good permeability characteristics. No objection subject to conditions.

### 3.3. **Prescribed Bodies**

No submissions

### 3.4. **Third Party Observations**

No submissions

## 4.0 **Planning History**

No planning history on the site.

Planner's report notes Enforcement file UDR 2488 - Ongoing in respect of unauthorised development on the site.

## 5.0 Policy Context

### 5.1 National Policy

Sustainable Rural Housing Guidelines 2005

National Planning Framework – National Policy Objective 19

### 5.2 Development Plan

The Roscommon County Development Plan 2022-2028 refers. This plan was adopted in the intervening period since the decision of the planning authority. Date of adoption was 8<sup>th</sup> March 2022, and the plan took effect on 19<sup>th</sup> April 2022. The appeal site falls within an area under urban influence.

**Policy PPH 3.13** is *“to facilitate single houses in rural areas subject to appropriate siting and design criteria, including demonstration of adherence to the principles set out in the County Roscommon Rural Design Guidelines. In addition, in the case of proposals for single houses in defined Areas under Urban Influence, applicants will be required to demonstrate a social or economic link (as per Table 3.2) to the rural area in which they propose to build.*

**Policy PPH 3.15** is to

*Direct urban generated housing in rural areas to the towns and villages (serviced and unserviced) in the county as set out in the Settlement Hierarchy in table 2.3.*

Table 3.2: Rural Housing Need Criteria

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Criteria	Description
<b>Economic Need</b>	<ul style="list-style-type: none"> <li>› Persons engaged full-time in a rural-based activity, who can show a genuine need to live close to their workplace and have been engaged in this employment for over five years. This would include those working in agriculture, horticulture, farming, forestry, bloodstock, peat industry, inland waterway or marine- related occupations, as well as part-time occupations where the predominant occupation is farming or natural resource-related;</li> <li>› A person whose business requires them to reside in the rural area. The nature of the operations of the business shall be specific to the rural area. Any such application shall demonstrate the viability of the business and clearly set out the nature of activities associated with the business and why it requires the owner to reside in the vicinity.</li> </ul>
<b>Social Need</b>	<ul style="list-style-type: none"> <li>› Persons who were born within the local rural area, or who are living or have lived permanently in the local rural area for a substantial period of their life at any stage(s) prior to making the planning application. It therefore includes returning emigrants seeking a permanent home in their local rural area who meet this definition;</li> <li>› Persons with a significant link to the Roscommon rural community in which they wish to reside, by reason of having lived in this community for a minimum period of five years prior to applying for planning permission or by the existence in this community of long established ties with immediate family members.</li> </ul>
<ul style="list-style-type: none"> <li>› Demonstration of an economic need or social need will not warrant the granting of permission for a dwelling in the rural area where an individual has already benefitted from a permission for a dwelling on another site, or owns an existing property within the rural area, unless exceptional circumstances can be demonstrated.</li> <li>› Successful applicants will be required to enter into a Section 47 legal agreement restricting the occupancy of the dwelling to the applicant and their immediate family, or to other persons who fulfil the economic or social need criteria set out above, for a period of 7 years.</li> <li>› Applicants relying on economic need criteria involving part-time occupations in farming or natural resources related activities will be required to submit sufficient evidence to demonstrate same, for example (but not limited to) a herd number or hours of activity as a farmer.</li> </ul>	

Development Management Standards are set out in Chapter 12. Roscommon County Council County Roscommon Rural Housing Design Guidelines provides guidance on siting and design principles for rural dwellings in the countryside. Rural dwellings are required to be designed to a high standard, to complement the character of the landscape, and to contribute in a positive manner to the built heritage of the county. The Guidelines promote a site specific response to design, in which the initial step is to select a site and only then devise a design appropriate to the characteristics of the site. The design response is required to be site specific.

### **5.3 Natural Heritage Designations**

The site is within 360m of the Lough Funshinagh SAC (Site Code 000611).

### **5.4 EIA Screening**

On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development, nature of the receiving environment no likelihood of significant effects on the environment arises from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary stage.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

The grounds of this first party appeal are summarised as follows:

- The planning authority did not properly consider the application in the context of the County Development Plan 2014-2020
- The Council erred in categorising the proposed development as obtrusive and impacting negatively on the visual amenity and landscape character of the area.
- Council acted outside its powers in concluding insufficient legal interest to carry out and complete the development.
- The inclusion of traffic hazard as part of the reason for refusal is not based on any evidence or report.
- Site is on a working farm of 48 hectares. The land is owned by the applicant's father who lives at Cam Lodge Brideswell 5.5km south of the proposed development and it is intended that occupancy of the dwelling will be taken up by the applicant's father to enable a more sustainable work life balance.
- Landowner is willing to sign a section 47 Agreement.

- No residential applications have been made within the townland in the last 10 years therefore designation as area under urban influence is questioned. County Development Plan 2014-2020 is out of date.
- Landscape character assessment designates the area of moderate value, the lowest designation in the County. There are no protected views. Dwelling is a modest single storey dwelling and will not be visible from the public road.
- Dwelling is highly insulated and it is proposed to use heat transfer pump for domestic heating. Building will have A3 BER. Visually the building reads as a timber clad structure.
- Access road is not in charge of the Council and serves as access for 4 landholdings. There is unencumbered access to the lands.
- Request the Board to reject reason of refusal of traffic hazard.

## **6.2 Planning Authority Response**

The response of the Planning Authority is summarised as follows:

- Strenuously reject suggestion that the planning authority did not properly consider the application
- Application was appropriately considered in the context of the rural housing policy applicable to the area which is area under urban influence
- Case does not demonstrate compliance with any of the four criteria set out in table 5.3 of the Roscommon County Development Plan 2014-2020.
- Notably Appeal suggests that the Board consider the circumstances of a different person retrospectively introducing another person.
- Policy context remains in an area under urban influence and also in light of the provisions of National Planning Framework 19 the focus is on the core consideration of demonstration of economic and social need to live in a rural area.
- Notwithstanding its existence, lesser siting and design criteria than those applied to proposals for permission cannot be accepted. Proposal is alien to its setting and has little prospect of appropriately assimilating even in the long



term. Insensitive imposition of a dwelling of a design which fails to reflect the rural vernacular architecture of Co Roscommon

- Inappropriate design and insensitive siting in the landscape gives rise to an adverse visual impact in a localised context and more widely sets a poor precedent for the acceptance of design concepts which are inappropriate to the Irish countryside.
- Site is c.9km as the crow flies from the nearest public road. No evidence has been provided of entitlement to access the site and landholding by way of private road outside the landholding. The lack of a formal access route on the final approaches to the site and reliance on access across a field represents uncoordinated and haphazard development.
- The PA reaffirms the assertion that the access arrangements are deficient and haphazard, and the absence of such fundamental infrastructure presents a situation which has the potential to endanger public safety by reason of traffic hazard.

## **7 Assessment**

7.1 I consider that the planning issues raised in the appeal can be addressed under the following broad headings.

- Rural housing policy
- Servicing, Wastewater Treatment, Traffic Safety & Design and Impact on Rural Amenity
- Appropriate Assessment

### **7.5 Rural Housing Policy**

7.5.1 Roscommon County Council's core strategy and settlement policy is set out within Chapters 2 and 3 of the Roscommon County Development Plan 2022-2028. The site

is located in an area designated as an area under urban influence. Policy PPH 3.13 is to *“Facilitate single houses in rural areas subject to appropriate siting and design criteria, including demonstration of adherence to the principles set out in the County Roscommon Rural Design Guidelines. In addition, in the case of proposals for single houses in defined Areas under Urban Influence, applicants will be required to demonstrate a social or economic link (as per Table 3.2) to the rural area in which they proposed to build.”*

**Table 3.2: Rural Housing Need Criteria**

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7.5.3 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.

7.5.4 The application as initially made indicated that the dwelling proposed for retention is intended for occupation by the applicant Ms Fiona Dolan who works as a financial service consultant and who works for home. Within the grounds of appeal an alternative proposal was suggested, namely that the dwelling would be occupied by the applicant's father who is the landowner and farmer of the land (48 hectares).

7.5.5 The adopted county settlement strategy as set out above seeks to direct growth towards designated settlements subject to the availability of infrastructure and services as far as practicable. CS2.3. Provision is made for single rural houses in areas under urban influence subject to demonstration of a social or economic link to the rural area. This is in line with National Policy Objective 19 of the National Planning Framework 2018. The policy implies that the accommodation of one-off houses in a rural area under urban influence would be exceptional and locationally based and justified. Having considered the application and appeal documentation and having regard to the conflicting information submitted, I am not satisfied that the application has demonstrated a genuine rural housing need. A grant of permission would in my view not comply with Policy Objective 19 of the National Planning Framework, would undermine the rural housing policy set out in the Roscommon County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

## **7.6 Servicing - Wastewater Treatment and Traffic Safety & Impact on Rural Amenity.**

7.6.1 As regards site suitability for effluent treatment I note that the site suitability assessment report outlines that in the trial hole excavated to 2.7m neither bedrock nor water table were encountered. Soil is described as loose crumb topsoil with uncompact crumb clay at 0.4m leading to firm silty clay of massive structure at 0.8m and massive firm clay with some granular material and stones/boulders at 1.2m. No preferential flowpaths were detected. A T value of 20.83 was recorded. Based on

these assessment results it is proposed to install a standard septic tank and percolation area. It appears based on the submitted details that it is technically feasible to provide for wastewater treatment on the site in accordance with EPA Wastewater Manual standards.

7.6.2 On the issue of traffic safety, I note the concerns raised by the Planning Authority with regard to the adequacy of the informal access to the site. I would concur that the access is entirely unconventional however I do not consider based on the scale of the development and level of traffic arising that the proposal would give rise to a traffic hazard. On the question of legal interest with regard to site access which formed part of the Council's third reason for refusal, I note that no third party submissions were received questioning the applicant's legal entitlement to use the access laneway. In any case I consider that legal interest and rights of way that these are essentially civil matters and not strictly matters for determination within the scope of planning legislation. In this regard I would refer the parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*"

7.6.3 As regards the design and siting of the dwelling, I note the elevated siting within the field and the design, character and finish of the dwelling. I have noted the provisions of the Roscommon County Development Plan 2022-2028 Development Management Standards and Roscommon Rural Housing Design Guidelines which seek to ensure a high standard of design to complement the character of the landscape, and to contribute in a positive manner to the built heritage of the county. I consider that the unauthorised development of a modular type dwelling with timber effect sheeting relates unsatisfactorily to the immediate area and represents an incongruous design and discordant materials within this rural area. If permitted, I consider that the proposal would establish an undesirable precedent for other similar development with a poor standard of amenity. The proposed development fails to meet the standards and guidelines of the Roscommon County Development Plan

2022-2028 and the Roscommon Rural Housing Design Guidelines would therefore be contrary to the proper planning and sustainable development of the area.

## **7.7 Appropriate Assessment**

7.7.1 The proposed development is not located within a European site and does not relate to the management of any European site and direct effects can therefore be ruled out. The application site is within c360km of Lough Funshinagh SAC (Site Code 000611). The qualifying interests are 3180 Turloughs and 3270 Rivers with muddy banks with *Chenopodium rubri* p.p. and *Bidention* p.p. vegetation.

7.7.2 Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways. Having regard to the physical distance it is considered that any impact from the hazard source will be diminished along the pathways in question by the time it reaches the receptor. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European sites, potential for significant effects, including direct indirect and in-combination effects on the integrity of the European sites in view of their conservation objectives can be ruled out.

## **8.0 Recommendation**

8.1 I recommend that the decision of Roscommon County Council to refuse permission to retain the development as set out be upheld for the reasons stated in the attached schedule.

## **Reasons and Considerations**

1. It is a policy of the current Roscommon County Development Plan 2022-2028 *PPH 3.13* “to facilitate single houses in rural areas subject to appropriate siting and design

*criteria, including demonstration of adherence to the principles set out in the County Roscommon Rural Design Guidelines. In addition, in the case of proposals for single houses in defined Areas under Urban Influence, applicants will be required to demonstrate a social or economic link (as per Table 3.2) to the rural area in which they propose to build.” Policy PPH 3.14 is a policy to “Direct urban generated housing in rural areas to the towns and villages (serviced and unserviced) in the county as set out in the Settlement Hierarchy in Table 2.3.”*

These policies are considered reasonable. Having regard to the location of the site within an area identified as an area under urban pressure and to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in 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, the Board is not satisfied that the applicant has sufficiently demonstrated that they have a rural-generated housing need. As a result, the Board considers that the proposed development would contribute to the further 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. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The Roscommon County Development Plan 2022-2028 Development Management Standards and Roscommon Rural Housing Design Guidelines seek to ensure a high standard of design to complement the character of the landscape, and to contribute in a positive manner to the built heritage of the county. Having regard to its siting and design it is considered that the unauthorised development of a modular type dwelling with timber effect sheeting proposed for retention relates unsatisfactorily to the immediate area and represents an incongruous design and discordant materials within this rural area. If permitted, the proposal would establish an undesirable precedent for other similar development with a poor standard of amenity. The proposed development fails to meet the standards and guidelines of the Roscommon County Development Plan 2022-2028 and the Roscommon Rural Housing Design

Guidelines would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector

24<sup>th</sup> October 2022