



An
Bord
Pleanála

Inspector's Report

ABP-312370-22

Development	Construction of two-storey dwelling
Location	Seskin Upper, Old Leighlin, Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	21341
Applicant(s)	Helen Carpenter and Rory Tynan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Edward Comerford
Observer(s)	None
Date of Site Inspection	29 th September 2022
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located in a rural area c. 4.8km northwest of the village of Old Leighlin in County Carlow. The site is c. 8.3km from the larger village of Leighlinbridge, c.13.5km from Bagenalstown and c.20km from Carlow Town.
- 1.2. The site, which has a stated area of 2.11ha, is a greenfield site in agricultural use. The site is defined by mature hedgerows including a hedgerow at the boundary with the local road, and a dividing hedgerow in the centre of two fields. There is an existing agricultural entrance to the site from the southwest corner of the site. The land is in an elevated area, with extensive views eastwards. The site itself is slightly sloping in nature, from north to south and from west to east. The surrounding sites are in agricultural use and a significant area of land further west is planted for forestry.
- 1.3. The local road adjacent the site is very narrow, facilitating one car only, with a need to pull in to accommodate passing cars.

2.0 Proposed Development

- 2.1. The proposed development comprises a proposal for a two storey dwelling house (248 sqm in area), detached garage (40sqm), new site entrance, and all other necessary services, including a wastewater treatment system and a bored well. A new vehicular entrance is proposed to the site from the northwest corner of the site, with 90m sightlines indicated in both directions.
- 2.2. The application was lodged with the planning authority on 10th September 2021, with further details received on 24th November 2021, following a request for further information on 29th October 2021 seeking documentary evidence to substantiate a case for compliance with the council's rural housing policy.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 14 conditions, including the following:

C2: Occupancy condition.

C4: Retention of hedgerow boundaries and new hedgerow boundary alongside the road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The PA considers the applicant Helen Carpenter complies with the rural housing policy.

3.2.2. Other Technical Reports

Environment Department – Recommends grant subject to conditions.

Water Services Department – No objection. The site does not impact on Irish Water assets.

Transportation Department – Recommends grant subject to conditions.

3.3. Prescribed Bodies

Irish Water– No objection. The site does not impact on Irish Water assets.

3.4. Third Party Observations

One third party observation was received from Mr. Edward Comerford, with a stated address of The Garage, Royal Oak Road, Bagenalstown Co. Carlow. The issues raised are primarily covered in the grounds of appeal.

4.0 Planning History

None.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Rural Housing Guidelines for Planning Authorities (2005)

5.2. Carlow County Development Plan 2022-2028

- Chapter 2: Core Strategy
 - Map 2.1 Settlement Hierarchy and Table 2.7 Core Strategy Table.
 - Old Leighlin is the settlement nearest the application site. It is in Tier 5 of the Settlement Hierarchy, designated a Smaller Serviced Village.
 - Serviced Villages Policies – CSP.12: Promote Serviced Villages as an attractive housing option for rural areas of the county through the promotion of quality of life, placemaking, and sufficient local service and infrastructure provision.
 - Leighlinbridge is the nearest town. It is in Tier 3 of the Settlement Hierarchy and designated a Small Town. The development plan states that ‘Facilitating housing in existing towns is paramount to ensuring the sustainability, vitality and viability of the rural places of the Region, according to the RSES. Support for housing will also include provision of serviced sites and / or lower density residential schemes which will act as a viable alternative to rural one-off housing, contributing to the principle of compact growth’.
- Chapter 3: Housing
 - Section 3.16 Single Housing in the Countryside
 - Section 3.16.2 Rural Generated Housing Need: Rural Housing Policy Zone 1:
Having regard to:
 - the viability of smaller towns and rural settlements in County Carlow; and,

- the need to protect the County's key economic, environmental, natural resources and heritage assets, such as important landscapes, habitats and built heritage, water quality, and the public road network,
- the Council shall consider a single house in the countryside for the permanent occupation of an applicant in Rural Areas Under Urban Influence where compliance with the criteria listed for Category 1 or Category 2 can be demonstrated as detailed in Table 3.5. Please note that compliance with only one of the Categories must be demonstrated.
- Chapter 13: Rural Design Guide
- Chapter 15: Town and Village Plans/Rural Notes
 - Smaller Serviced Village – this includes Old Leighlin
 - It is the policy of the Council to promote the serviced villages as an attractive housing option for rural areas of the County through the promotion of quality of life, placemaking and sufficient local service and infrastructure provision (Ref: CSP 10).
- Chapter 16: Development Management Standards

5.3. **Natural Heritage Designations**

The River Barrow and River Nore SAC (002162) is 2.7km west of the site.

5.4. **EIA Screening**

The proposal is for a new dwelling, to be served by an on-site wastewater treatment system. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

One appeal has been lodged by Mr. Edward Comerford of The Garage, Royal Oak Road, Bagenalstown Co. Carlow. The grounds of appeal are summarised as follows:

- Appellant states he does not live in Bagenalstown but works there and uses it for a postal address. He lives with his son/daughter in law in Nurney, Co. Carlow.
- Loss of privacy - Appellant's intention is to do up the old farm house next to the proposed site and the proposed house would result in loss of privacy to the old farm house. Appellant owns 50 acres and had intended to purchase the property to maintain his privacy and extend his farm.
- Additional Traffic and Safety due to narrowness of road.
- Land is wet.
- Applicants are not from the area. Helen Carpenter's home farm is at Raheen, Old Leighlin and there is adequate land there, close to Old Leighlin Village, to build a house.
- There are sufficient houses in the area of Old Leighlin for sale.
- Land at Seskin is in remote unspoilt area, supporting wildlife.
- All houses in the area are single storey.

6.2. Applicant Response

The applicant has responded to the grounds of appeal as follows:

- Whether Mr Comerford lives in Bagenalstown or Nurney, the proposed development will not overlook him. The old farm house referred to is in ruins. Where a habitable house to be built at that location, there would be no overlooking as the application site is located in a lower field, with three field hedges in between. The proposed landscaping of the site will ensure privacy for the application site.

- There is no problem with surface water on the site. The land is on a slight slope and is free draining, as demonstrated in the waste water treatment report. Corn was previously grown on the site, which is only grown on good quality land.
- The land is not more suited to forestry than farming. Mr Comerford tried to buy the land at auction. Lands were purchased fairly by the applicants at auction. It is not fair that Mr. Comerford is objecting because he wants to buy the land.
- Helen is from the area, as accepted by Carlow County Council. There are no sites beside her parents home and CCC has advised they will not allow further houses on Raheen Lane. Other houses being available to purchase is irrelevant as don't own and can't afford them.
- Proposed development has been architecturally designed with a landscaping plan, in consultation with Carlow County Council.
- Helens Parents are elderly and wish to be close to assist with their care.
- Current accommodation is too small for family.

6.3. Planning Authority Response

A submission was received from the PA on 25th January 2022. The PA re-iterates that 'the Applicant, Helen Carpenter, is deemed to have submitted documentary proof to substantiate compliance with the requirements of Carlow County Council's Rural Housing Policy as set out in Section 2.7.1.3 and 2.7.1.4 of the Carlow County Development Plan 2015-2021'. The position of the PA remains as per the planning report recommendation.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Rural Housing Policy

- Visual Amenity and Overlooking
- Road Safety
- Water Services

7.1. Rural Housing Policy

- 7.1.1. The Carlow County Development Plan 2022-2028 came into effect on 4th July 2022. I note the Planning Authority's assessment of this application was undertaken under the previous Carlow County Development Plan 2015-2021. I assess hereunder the application against the operative development plan.
- 7.1.2. The proposed development site is located in a rural area of County Carlow, which is classified in the development plan under Map 3.2 as being within 'Rural Housing Policy Zone 1 – Rural Areas Under Urban Influence'. The nearest settlement of Old Leighlin (c. 4.8km to the southeast) is classified as a level 5 'Smaller Serviced Rural Village' in the settlement hierarchy for Carlow (see table 2.1).
- 7.1.3. Under Rural Housing Policy Zone 1 the Council shall consider a single house in the countryside for the permanent occupation of an applicant in Rural Areas Under Urban Influence where compliance with the criteria listed for Category 1 or Category 2 can be demonstrated as detailed in Table 3.5. Table 3.5 clarifies that under category 1 an applicant must have a functional economic requirement to live in the rural area or under category 2 have a functional social requirement to live in the rural area. In accordance with Category 2 of the rural housing policy in the development plan, a person/persons shall demonstrate they have a functional social requirement to live in this rural area and documentary evidence is required to show a person is living or has lived full time in the local rural area for a minimum of 5 consecutive years at any stage prior to the making of the planning application. 'Local rural area' is defined as a site within an 8km radius of where the applicant is living or has lived.
- 7.1.4. There are two applicants, Helen Carpenter and Rory Tynan. The applicants have applied for a rural dwelling on the basis of local links of one of the applicants, Helen Carpenter. No information in relation to Rory Tynan has been submitted. I note Helen Carpenter is stated to be a nurse and Rory Tynan is stated to be working from home, which, from the information supplied, appears to be a product of working

practices as opposed to being involved in a rural based business. No information is submitted in relation to the applicants' current residence.

- 7.1.5. The documentation submitted in relation to Helen Carpenter includes documentation demonstrating that she has lived for 5 consecutive years in the rural area. Helen Carpenter, states that her parents' home is located in the area of Raheen Lane (c. 2km northwest of Old Leighlin village) and, based on a map submitted, is 4.2km from Helen Carpenter's parents' home at Raheen Lane. Documents relating to Helen Carpenter include letters from the primary school in Old Leighlin, St. Leo's secondary school in Carlow, and DCU which all indicate a home address of Raheen, Old Leighlin, Co. Carlow, the dates of which span a period of five consecutive years. Other correspondence/statements have also been submitted showing the same address, with dates in 2006, 2010, 2017 and 2021. The latter documents don't show five consecutive years in current/recent times, however, the development plan policy does not require this.
- 7.1.6. The PA consider the applicant's submitted documentation is sufficient to satisfactorily 'substantiate compliance with the requirements of Carlow County Council's Rural Housing Policy as set out in Section 2.7.1.3 and 2.7.1.4 of the Carlow County Development Plan 2015-2021.
- 7.1.7. I now refer to national policy. National Policy Objective 19 in the National Planning Framework (NPF) states in relation to areas under urban influence, that it will be necessary for applicants to demonstrate 'a functional economic or social requirement for housing need' (National Policy Objective No. 19), stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements. The Sustainable Rural Housing Guidelines 2005 further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.
- 7.1.8. While I would accept that one of the applicants has close family links to the area, I would have serious reservations as regards the validity of the applicant's functional social need to reside at this specific site, notwithstanding the family links to the area. Given the close proximity of the subject site to the serviced village of Old Leighlin

and Leighlinbridge, and as both applicants main employment does not necessitate their residence in the rural area in question, I am inclined to suggest that the existing settlements in the immediate locality would be capable of satisfactorily addressing the applicants residential needs. I note no information has been submitted in relation to housing need (existing housing ownership) and no information has been submitted about Rory Tynan or his compliance with the development plan policy.

7.1.9. Policy CSP.12 of the operative development plan seeks to 'Promote Serviced Villages as an attractive housing option for rural areas of the county through the promotion of quality of life, placemaking, and sufficient local service and infrastructure provision'. I consider this proposed dwelling would exacerbate issues around the sustainable development of serviced urban areas, which would contravene policy CSP.12, given this area is under significant development pressure due its proximity to existing urban centres and settlements. The Board will note in relation to NPO 19 that it is a core consideration in rural areas under urban influence, that the provision of single housing in the countryside is based on demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, as well as the requirement to have regard to the viability of smaller towns and rural settlements, with the latter point being, in my opinion, of particular import in this case.

7.1.10. Having regard to my assessment above, to the totality of the 2005 Guidelines, the relevant provisions of the development plan and of the National Planning Framework, in particular the location of the site proximate to the urban centres of Old Leighlin and Leighlinbridge, I am not satisfied that the applicant has demonstrated adequate compliance with the policy objectives of the CDP and Objective 19 of the NPF, having regard to the viability of smaller towns and rural settlements.

7.2. Visual Amenity and Overlooking

7.2.1. The subject site is in an elevated area with extensive views eastwards. The site is bounded by mature hedgerows and trees. I note there are a number of forestry plantations in the locality, particularly to the west. The proposed house is positioned c. 190m into the site from the local road. The local road to the west has a ground level of c. 270m and the ground level of the location of the proposed house is indicated to be 260m, with the ridge level of the house being 268.13m. I consider,

that while the dwelling would not be overly visible from the road to the west, there would in all likelihood be a greater degree of visibility from the west where the ground level drops away from this higher level. I note this is not an issue of concern to the PA. Overall, and noting the degree of screening from hedgerows to the west and east, and having regard to the policies and objectives within the operative development plan, I do not consider the design or positioning of the dwelling as proposed would significantly detract from the visual amenity of the area or of neighbouring properties.

- 7.2.2. I note concerns raised by the appellant that the proposed dwelling would overlook his property. The property referred to is a derelict structure and given the landscaping and screening offered by the existing boundaries to this site, I do not consider any overlooking issues arise in relation to the appellant's property.

Road Safety

- 7.2.3. The proposed development includes a new vehicular access onto the public road. The road is quite narrow, accommodating one car only. There are no footpaths, cycle paths, or public lighting. I note the low volume of traffic in this area and I would accept that the sightlines can be achieved.
- 7.2.4. The planning authority's roads engineer indicates no issues. I do not consider that a refusal of permission for reasons of roads and traffic would be reasonable.

Water Services

- 7.3. It is proposed to serve the development with a bored private well. The applicant proposes a wastewater treatment system with percolation area to address wastewater
- 7.4. There is no public sewerage or public water supply available to serve the proposed development. I note the site was firm underfoot upon site inspection. The information submitted in terms of the wastewater treatment system does not highlight specific concerns and I note the PA is satisfied with regard to the information submitted. The issue of wastewater treatment is not an issue raised in the third party appeal.
- 7.5. With regard to surface water issues raised, I note a soakpit is proposed and I note the flow direction of surface water. I have no concerns in this regard.

Appropriate Assessment Screening

- 7.6. The site is not located within any designated site. The site is not directly connected to any European Site and there are no hydrological connections to any such sites.
- 7.7. As the proposed development has no source-pathway-receptor to any European site, it does not have the potential to have an effect on any European site and there is no potential for it to have likely significant effects on any site in combination with any other plan or project. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site and that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused, for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

The subject site is location in a rural area which is identified by the Carlow County Development Plan 2022-2028 as being under strong urban influence and in an Area Under Strong Urban Influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005. Furthermore National Policy Objective 19 of the National Planning Framework (2018), outlines that in such areas 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...having regard to the viability of smaller towns and rural settlements”, and Rural Housing Policy Zone 1 of the Carlow County Development Plan 2022-2028 also considers a single house in the countryside for the permanent occupation of an applicant subject to compliance with a functional economic or social requirement, while having regard to the viability of smaller towns and settlement and need to protect key assets. Having regard to the proximity of the site to Old Leighlin and to the documentation submitted with the application and with the appeal, it is

considered that the applicants have not demonstrated a functional social need, or economic need, to live at this specific location in this rural area in accordance with national policy. The proposed development, in the absence of any definable or demonstrable need for the house at this location, 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. The proposed development would, therefore, contravene the Ministerial Guidelines and be contrary to national policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

5th October 2022