



An
Bord
Pleanála

Inspector's Report

ABP-312536-22

Development	Permission consequent on the grant of Outline Permission (Outline Permission Reference No. 19/476) is sought for a dormer style dwelling, on-site wastewater treatment system and all associated site development works
Location	Ballykealey Lane, Ballon, Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	21181
Applicant(s)	Patrick O'Brien
Type of Application	Permission consequent on the grant of Outline Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Brendan Hogan
Observer(s)	None
Date of Site Inspection	29 th October 2022

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site, with a stated area of 0.197 hectares, is located within the village of Ballon, Co. Carlow. Ballon is situated 19km to the south-east of Carlow town on the N80 National Secondary Road.
- 1.2. The site is located on the southern side of Ballykealey Lane, which is accessed off the N80 to the east. The lane varies in width from 6m to 6.5m in places, and serves seven detached dwellings which are set out in a linear form along the lane. Ballykealey House (protected structure) and its grounds are situated on the northern side of Ballykealey Lane, with the boundary opposite the site comprising high hedgerows/trees and a section of a high old stone wall related to a walled garden. Ballykealey House operates as a hotel/restaurant/wedding venue. A rear vehicular access to the house is located at the end of the laneway, with the main access/avenue to the house from the N80.
- 1.3. The site has a frontage of 27m onto Ballykealey Lane and has a depth of circa 110m. The boundary with Ballykealey Lane is formed by a wooden post fence and gated access. The Forge Meadow residential estate lies immediately to the east and is accessed from the N80/Main Street in Ballon. It contains a scheme of c. thirty-nine detached dwellings, with four dwellings backing onto the eastern site boundary, with the boundary of the housing estate to the laneway comprising a hedgerow behind which is a wooden fence. There is a detached two-storey house located to the west of the site, with the boundary between the sites comprising a wooden post fence.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a detached dormer dwelling, 149.6 sqm in area, and associated on-site wastewater treatment system.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 11 conditions, including the following:

C3: Compliance with plans submitted in terms of lines of sight.

C4: Wastewater treatment system.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following the receipt of a response to a request for further information (received 16th November 2021), Carlow County Council issued a notification of a decision to grant permission on 13th December 2021, subject to 11 conditions. The Planning Officer's report generally reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

Road Engineer – Proposal will not affect traffic in the area. No objection. Query added to the report for the attention of the planner asking why there is a need for a well and a septic tank when there is a public supply in the area.

Environment – Assessment of wastewater treatment system, based on EPA Code of Practice, 2009. No issues raised.

3.3. Prescribed Bodies

Irish Water – No objection.

3.4. Third Party Observations

One third party observation was received from the owner/occupier of the two-storey detached dwelling to the west of the application site. The issues raised are primarily covered in the grounds of appeal. I note the following issues raised:

- Loss of privacy due to side elevation windows and loss of light, sunlight and privacy due to proximity and height of the dwellings.
- Site size is constrained resulting in location of majority of wastewater treatment system to front of the house instead of to the rear which is highly unusual and contrary to good practice.
- Location of trial holes and location of treatment plant and percolation area has changed.

- Mains water isolation valve and meter utility is 3m from property boundary and given groundwater flow is east to west, there should be a greater separation distance from the percolation area to that pit.
- Location of driveway visually obtrusive, particularly at night with car lights and noise.
- Issue of fluvial zone and soakaway.
- Risk of water egress from site to site to the west.
- Wastewater treatment system barely meeting separation distances.
- Sightlines are not clear and unobstructed.

4.0 **Planning History**

ABP-308147-20 – Outline Permission GRANTED on 18.03.21 for a two-storey dwelling and on-site wastewater treatment system, subject to 8 conditions. The following conditions are noted:

C2: The plans and particulars to be submitted by way of a separate application for permission consequent shall include the following:

- (a) a comprehensive site survey, to a scale of not less than 1:500, including contours at intervals of 0.5 metres, showing all existing boundaries and other features;
- (b) a site layout plan to a scale of not less than 1:500 showing the layout of the proposed house and driveway;
- (c) the proposed finished ground floor levels of the house by reference to existing site levels, finished ground floor and roof levels of all neighbouring houses, and the road level at the proposed entrance;
- (d) proposals for the landscaping of the site including landscaping and boundary treatments to the west and east site boundaries; and
- (e) full details of the proposed entrance to the public road, including any walls or railings.

Reason: To enable the application for permission consequent to be fully assessed.

C3: Details of the design of the house and associated works shall be submitted by way of a separate application for permission consequent and shall incorporate the following requirements:

(a) The position of the house shall be consistent with that shown on the Site Layout Plan, received by the planning authority on 21/07/20.

(b) Any windows above ground floor level on the west elevation shall be of permanent obscure glazing.

(c) Landscaping and boundary treatment along the western site boundary shall be designed to ensure the avoidance of direct overlooking into ground floor windows of the adjoining property from ground floor windows at the proposed dwelling.

Reason: In the interest of visual and residential amenity.

C4: (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 21st day of July, 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity

insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Rural Housing Guidelines for Planning Authorities (2005)
- EPA Code of Practice for Domestic Wastewater Treatment Systems 2009 & 2021

5.2. Carlow County Development Plan 2022-2028

- Chapter 2: Core Strategy
 - Table 2.1 Settlement Hierarchy and Table 2.7 Core Strategy Table.
 - Ballon is in Tier 3 in the Settlement Hierarchy, designated a Small Town.
 - 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.
 - Small Towns Policies – CSP.10: Promote consolidation coupled with targeted housing and investment policies in Small Towns to improve local employment, services and sustainable transport options and to support small town viability.
- Chapter 3: Housing
 - Urban Infill and Backland Development – A balance is needed between the protection of amenities, privacy, the established character of the area and

new residential infill. The use of contemporary and innovative design solutions may be considered for infill and backland development. Connections to the surrounding area and services should be identified and incorporated into proposals.

- Policy UI.P1: Encourage and promote the development of underutilised infill, corner and planned co-ordinated backland sites in existing urban areas subject to appropriate siting, compliance with development management standards for dwellings and the character of the area and the environment being protected.
- Chapter 15: Town and Village Plans/Rural Notes
 - Ballon Plan:
 - The application site is located within the Development Boundary for Ballon.
 - Zoning of application site: Part of the site is zoned Existing Infill/Residential and the other part appears to be unzoned, with a linear portion on the zoning map coloured white – which is what other roads within the town are coloured.
 - Flood Zone A relates to a significant portion part of the application site.
 - Policy BA.P14: Support and encourage residential / mixed use development on under-utilised and/or vacant lands including 'infill' and 'brownfield' sites, subject to a high standard of design and layout being achieved, and compliance with proper planning and environmental considerations.
- Chapter 16: Development Management Standards
 - 16.10.7 – Table 16.5, Sight Line Requirements and Distance from Edge of Carriageway – for a local road, of 60-80kph, a sight distance of 90m is required, measured from a set back of 2.5m from the edge of the carriageway.

5.3. Natural Heritage Designations

The following European sites are located in the vicinity of the proposed development site:

- The Slaney River Valley SAC (Site Code: 000781) and pNHA is located approximately 3.6km to the east of the application site.
- The River Barrow and River Nore SAC (Site Code: 002162), is located approximately 13km to the west of the application site.

5.4. EIA Screening

Having regard to the nature and scale the development, which consists of a single house in an urban 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

A third party appeal was submitted by Brendan Hogan. The issues raised are as follows:

- Planning history of site shows applications previously made and has never been development. A grant would contradict previous findings.
- Overdevelopment – There are 7 dwellings on Ballykealey Lane and an additional dwelling would give rise to ribbon development and result in increased traffic on a narrow section of road. The rear entrance to the hotel is also along the laneway and is used by staff and maintenance for access.
- Access – sightlines of 90m cannot be achieved as it would require alterations of neighbouring boundaries.

- Overshadowing – A detailed shadow analysis has not been submitted. Potential impacts on patio to the west. It is noted that no. 24 Forge Meadows extends much closer to the site than indicated on the plans.
- Treatment System Location – Open drain for surface water along the lane is not identified on the plans. Potential conflict with proximity of polishing filter. Concerns in relation to location of the percolation area and future contamination to ground water. Concern is relation to proximity of proposed bored well, which is only 19.045m from the polishing filter.
- Overdevelopment of the site and over proliferation of septic tanks.

6.2. Applicant Response

None.

6.3. Planning Authority Response

A response in relation to the appeal was received from the Planning Authority on 15th February 2022. The following points are noted:

- The proposed site and the nature of the development complies with current development plan standards in terms of sightlines, density, privacy, and proximity to adjacent houses.
- The proposed site is 'infill' in nature and is served by a local cul-de-sac, with low traffic and it is considered it would not impact negatively on traffic or traffic congestion. There is no objection from a roads and traffic perspective, subject to conditions.
- A shadow study is not warranted.
- There is no objection from the Council's Environment Section.

6.4. Observations

None.

7.0 Assessment

I consider that the relevant issues in determining the current appeal before the Board are as follows:

- Principle of Development
- Design and Residential Amenity
- Vehicular Access
- Water Services, incl. Flood Risk Assessment
- Appropriate Assessment
- Other Matters

7.1. Principle of Development

- 7.1.1. I note this application was assessed by the PA under the Carlow County Development Plan 2015-2021. The Carlow County Development Plan 2022-2028 has since been adopted. I assess hereunder the application site against the current operative development plan.
- 7.1.2. The subject site is zoned Existing Infill/Residential, as per the Ballon Land Use Zoning Map (see Chapter 15 of Carlow County Development Plan 2022-2028, Ballon Plan) with a linear section of the site (approx. half), coloured white and appearing to be unzoned – the roads in the town are all white in colour, similar to this section of the site, although I note from site inspection that there is no road through this site and no road objective relating to this site. I note the PA Report does not comment on this issue. The provision of residential development is considered acceptable in principle within the zoning objective, including that area coloured white, subject to assessment against normal planning criteria.
- 7.1.3. The appellant raises concerns in terms of overdevelopment of the laneway and issue of ribbon development. The subject site is located within the development boundary of Ballon, as per the Ballon Land Use Zoning Map. As the site is within the development boundary of the town, it does not constitute a rural dwelling and the issue of ribbon development does not arise in this case. I consider the application site an infill site, as defined by policy RH.P11. I note policies UI.P1 and BA.P14

support the consolidation and use of underutilised infill sites for residential purposes. The principle of development is accepted.

7.2. Design and Residential Amenity

- 7.2.1. The appellant has expressed concern in relation to potential for overshadowing of neighbouring property to the west as well as potential impacts on properties to the east, loss of privacy, and overbearance due to proximity and scale.
- 7.2.2. I consider here the potential impact of the proposed dwelling on the amenity of the dwelling to the west. The proposed dwelling is positioned at the northern portion of the site, aligned approximately with the front and rear building line of the neighbouring dwelling to the west. The proposed dwelling is 3.2m from the western boundary and there is an overall distance of 12m between the side gable wall of the proposed dwelling and the side gable of the dwelling to the west. I note the dwelling to the west has windows to the side on the ground level and a patio. The proposed dwelling is designed as a dormer bungalow with an overall height of 6.9m and has ground level side windows toward the western boundary serving a toilet and utility room. The ridge level of the proposed dwelling is 84m, compared to ridge level of the neighbouring dwelling to the west of 86m. Given the footprint and overall modest scale and bulk of the proposed dwelling, in my opinion the proposed dwelling will not have a significant negative impact in terms of overbearance on the neighbouring property and the ground level windows will not have a significant impact in terms of overlooking given their location at ground level and given the function of the rooms they serve. In terms of impact on daylight, sunlight and overshadowing, I note the positioning of the proposed dwelling to the east of the site, its overall limited height and distance from the dwelling, in addition to the path of the sun relative to the proposed dwelling. I have had regard to BRE guidance 'Site Layout Planning for Daylight and Sunlight'. Any impact the proposed development may have is limited and the proposal will not have a significant impact on the southerly and westerly light reaching the neighbouring dwelling. I do not consider the submission of a sunlight/daylight assessment is warranted or required in this instance given the limited scale of the development proposed and positioning of the proposed dwelling. The subject site is zoned for residential use and the potential impacts arising are not significant in an urban context.

7.2.3. In terms of potential impact on dwellings to the east, I note the proposed dwelling is 3m from the eastern boundary at its closest point. There is an overall distance of c. 16m from the side gable and the rear elevation of the nearest dwelling to the east. I do not consider significant issues arise in terms of overlooking, overbearance or sunlight/daylight/overshadowing, given the positioning of the proposed dwelling and its overall design and scale.

7.2.4. In terms of boundary treatment, I note the applicant proposes a splayed entrance with wing walls comprising a 1.25m high plastered block wall, with 1.5m high pillars and 1.2m high galvanized steel metal gate. The boundary on either side of the wing walls appears to be a post and rail fence, as per the existing boundary. I note the other houses on the laneway utilise primarily a post and rail fence supported by trees/planting (with two of the houses further west comprising short sections of natural stone wing walls at the entrance). The boundary to the neighbouring Forge Meadows estate (which has houses backing onto the lane), supports a native hedgerow boundary along the lane, behind which is a wooden fence. On the opposite site of the laneway is a significant tree/hedgerow line associated with Ballykealey House and grounds, with a section of high stone wall related to a walled garden. Given the character of the laneway and the presence of Ballykealey house and lands (protected structures) on the opposite side, I consider the proposed plastered walls with steels gates would be overall out of keeping with the character of the lane. Should the Board be minded to grant permission I consider a condition in relation to the boundary treatment would be warranted, to replace the proposed plastered wall and gate, with either a 1.2m high timber post and rail fence and gate or natural stone wall, to be supported by native hedgerow planting.

7.3. **Vehicular Access**

7.3.1. The proposed site access is onto Ballykealey Lane a private lane which extends for circa 650m. The lane has a junction with the N80 circa 194m to the east of the site. The appellant raises concerns in respect of the availability of satisfactory sightline distances at the proposed vehicular entrance and also additional traffic generated by the dwelling onto the laneway.

- 7.3.2. As detailed on Drawing No. J652-PL02-001, sightlines of 90m are proposed to the east and to the west from a new splayed vehicular entrance, as permitted at Outline stage under ABP-308147-20. The proposed sightline provision is in accordance with DMURS standards. I note a report by the Local Authority Road's Engineer states no objection with the proposal.
- 7.3.3. In relation to the matter of generation of traffic on the laneway, the proposal of a single dwelling represents a very limited level of additional traffic which can be accommodated.
- 7.3.4. Overall, I would consider that the proposed development would be acceptable in terms of traffic and access considerations and would not give rise to a traffic hazard.

7.4. Wastewater Treatment and Water Supply

- 7.4.1. While I note there is a WWTP in Ballon and there is a public water supply, the applicant is proposing to utilise an on-site wastewater treatment system and a bored well for water. While I would question the sustainability of such an approach in an urban area where public services are available (a 200m connection eastward along the private lane would be required to reach the water connection as indicated in history documentation), this issue has not been raised by the PA or the appellant and therefore would be a new issue should the Board wish to consider it further. I consider hereunder the services as proposed in this application, which were accepted under the outline application.
- 7.4.2. The appellant raises concerns in relation to the size of the site and the bare minimum compliance with separation distances between the various wastewater elements, well, and house as set out in the EPA Code of Practice (CoP), with minimum room for error and questions the ability to adhere to these standards in practice. The appellant also raises the issue of proliferation of septic tanks in the area.
- 7.4.3. In terms of the wastewater treatment system proposed, this was assessed in the previous application and by the PA under the EPA Code of Practice for Domestic Wastewater Treatment Systems 2009. This guidance has since been replaced by the EPA Code of Practice for Domestic Wastewater Treatment Systems 2021, however, I note that the preface of the revised CoP, states the new document

'applies to site assessments and subsequent installations carried out on or after 7th June 2021. The 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date'. I note that the planning application was lodged with Carlow County Council on the 20th May 2021 and the Planners Report dates 7th June 2021. Based on the forgoing, I consider the EPA CoP 2009 to be the relevant CoP for the purpose of this appeal.

- 7.4.4. The subject site is location in a Poor Aquifer (PI) category, with a high vulnerability rating (H). The depth of the trial holes were 2.1m, as required, and the depth from the surface to the water table was 1.8m. No rock was found at depth of 2.1m and no mottling was recorded. Soil type is stated to be mainly acidic mineral poorly drained, fine loamy sand with limestone. The CoP Response Matrix indicates that the site falls with the R1 response category where an on-site system in acceptable subject to normal good practice.
- 7.4.5. T test result is 33.11 and P test result is 13.81. The site is suitable for a secondary treatment system with polishing filter at ground surface or overground. It is proposed to install a packaged wastewater treatment system and polishing filter, with discharge to ground water.
- 7.4.6. The pressurised sand polishing system is from my measurement of the submitted site layout plan 9m from the proposed dwelling (min distance required by CoP is 7m), with proposal for a rising main to the percolation area (I note the rising main is c. 7m from the dwelling). The proposed well is located 19m upstream of the proposed sand polishing filter (min. distance required in the CoP is 15m). The treatment system to the north of the dwelling is 31m from the soakpit to the south of the dwellings (min distance required by CoP is 5m). The percolation area is indicated on the site layout plan to be 3.095m from the boundary to the west. While I note the applicant's concern in relation to absolute minimum distances being met, the proposal is nonetheless meeting the minimums and is in compliance with the CoP.
- 7.4.7. The PA report and associated Environment Section Report dated 26th May 2021, considers the proposal acceptable. Having regard to the details set out above I would consider that the wastewater treatment proposals are acceptable.

7.4.8. There are seven detached properties on this laneway and the development to the east is connected to the public WWTP in Ballon. I do not consider there to be a proliferation of septic tanks in this area.

7.4.9. I note the well is positioned 1m off the boundary to the east and 3m from the roadside edge. The PA report raises no concern in this regard.

7.5. Flood Risk Assessment

7.5.1. I note a significant portion of the site is located within a flood zone (see Carlow County Development Plan 2022-2028, Chapter 15, Ballon Plan, Ballon Land Use Zoning Map, flood zone A and flood zone B). It would appear that the position of the proposed dwelling is located outside of flood zone A, but within a section identified as flood zone B. A soakpit is proposed within the area identified as flood zone A. No overlay of the map and the site layout is provided. I note the flood risk is fluvial in nature. A river, named Ballaghmore Distributary/Stream, flows alongside the southern boundary of the site, which feeds into the Douglas River c. 2.1km to the northeast, which flows into the Slaney River Valley SAC, a further c. 2.1km to the east.

7.5.2. Policy FR.P4 of the development plan states 'Require the submission of a Site-Specific Flood Risk Assessment (FRA) in areas at risk of flooding. The assessment shall be carried out by a suitably qualified and indemnified professional, shall be appropriate to the scale and nature of the risk to the proposed development and shall consider all sources of flooding. The FRA shall be prepared in accordance with the Planning System and Flood Risk Management - Guidelines for Planning Authorities and shall address climate change, residual risk, avoidance of contamination of water sources and any proposed site-specific flood management measures'. Policy IW.P5 states 'Maintain a biodiversity protection (buffer) zone of not less than 10 metres from the top bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities and consultation with Inland Fisheries Ireland'.

7.5.3. No Site Specific Flood Risk Assessment (SSFRA) has been submitted as part of this application, however, I note under the outline permission granted by ABP under ref

ABP-308147-20, for one dwelling on this site (granted on 18th March 2021), that the application did contain a SSFRA (dated 7th May 2019). I would accept that the two applications are linked, with this application consequent on the grant of the outline permission granted. No new issues have arisen in relation to flood risk in the intervening period and the land remains unaltered, therefore I consider the information contained within the 2019 SSFRA to remain valid. I note the PA has considered the SSFRA as part of this application and accepts the information therein, raising no objection to the proposal.

- 7.5.4. I note the Strategic Flood Risk Assessment for the county which accompanies the new development plan states under Appendix A, that in relation to requirement for Justification Tests and future development on zoned residential land in identified flood zones A and B in Ballon (specifically Forge Meadows and lands west of it – which includes the application site), that existing flood data is indicative and does not provide flood levels, therefore an appropriately detailed hydraulic model will be required to confirm flood levels and extents. The sequential approach should be applied, and highly vulnerable infill and redevelopment shall not be permitted in Flood Zone A or B. A number of other measures are also outlined. It is also stated that infill residential development and demolition and reconstruction can only take place in flood zone C.
- 7.5.5. The SSFRA dated 7th May 2019 states that as part of its screening assessment, the site is potentially susceptible to a fluvial flood event in the Ballaghmore Stream, as identified on the mapping, which is however intended to be indicative only. To enable a more robust analysis of the fluvial flooding regime, the SSFRA includes a hydraulic model for the Ballaghmore Stream, along a channel length of 400m, in addition to DTM and contour mapping. The model indicates no out of bank flooding is predicted to occur within the site during the 1% and 0.1% AEP flood events in the Ballaghmore Stream. The fluvial flood risk is therefore rated as Low. A secondary risk arising from a blockage of the bridge downstream of the site was also examined, with no flood risk predicted from such an event. While the Ballon Plan shows a significant portion of the site being within Flood Risk Zone A, the SSFRA indicates following a site specific assessment, that the site is within Flood Risk Zone C. It is recommended that the proposed dwellings be constructed with FFLs at a minimum of 0.3m above the existing ground level of 77mOD to a minimum level of 77.03mOD. It is concluded

in the report that the overall flood risk to and from the site is considered low and that the development of the site would not result in an adverse impact to the hydrological regime of the area.

- 7.5.6. I consider the application, when assessed against the Carlow County Development Plan 2022-2028 requirements and associated SFRA for the County, and having regard to the SSFRA undertaken on the associated application ABP-308147-20 which recategorises the site as being within Flood Zone C, that the proposed development is acceptable in terms of flood risk and will not result in an increase of flood risk elsewhere.
- 7.5.7. Proposals that surface water shall be disposed of within the site to soakpits south of the proposed dwelling, is in my opinion acceptable, given the findings of the SSFRA.

7.6. **Appropriate Assessment**

- 7.6.1. An appropriate assessment screening has not been submitted with this application, however, I note a report titled 'Appropriate Assessment Screening Report', dated 17th October 2019, was submitted with the linked permitted outline application ABP-308147-20.
- 7.6.2. The proposed development is for one dwelling and associated Wastewater Treatment System. Ballaghmore Distributary/Stream is located along the southern boundary of the site. This stream flows into the Douglas River c. 2.1km to the northeast, which flows into the Slaney River Valley SAC, a further c. 2.1km to the east. The proposed dwelling is positioned on site 67.6m north of the stream. The ecological survey of the site indicates the site to be of local ecological value. There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence that species listed in Annex II of that Directive or supporting habitat are present. No evidence of otter was recorded within or adjacent to the development site. No invasive species were recorded on the site.
- 7.6.3. Wastewater from the proposed development is to be treated on-site by a packaged system with a sand polishing filter, which are located north of the proposed dwelling, 84m north of the Ballaghmore Stream. Surface water is proposed to discharge to a soakpit positioned in the rear garden of the proposed dwelling, 54m north of the stream.

7.6.4. There is no direct or indirect link from the site to the River Barrow and River Nore SAC to the west, and given the distance of 13km from the application site as well as the lack of a source-pathway receptor, the proposed dwelling is not likely to have a significant effect on that European site. An indirect link to Slaney River Valley SAC via the Ballaghmore Stream to the east is considered in terms of surface water and groundwater.

7.6.5. The conservation objectives and qualifying interests of the Slaney River Valley SAC are set out in the table below:

European Site (code)	Conservation Objectives and List of Qualifying Interests/Special Conservation Interest	Distance from Dev (km)
Slaney River Valley SAC (000781)	<p>The conservation objectives for the SAC at the Slaney River Valley are:</p> <p>To restore the favourable conservation condition of the following species – 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1099 River Lamprey <i>Lampetra fluviatilis</i> 1103 Twaité Shad <i>Alosa fallax</i> 1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water) 1355 Otter <i>Lutra lutra</i>.</p> <p>To maintain the favourable conservation condition of the following species 1365 Harbour Seal <i>Phoca vitulina</i>.</p> <p>To restore the favourable conservation condition of the following habitats – 91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91E0 * Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>).</p> <p>To maintain the favourable conservation condition of the following habitats – 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i></p>	c. 4km to the east

	vegetation; 1130 Estuaries; 1140 Mudflats and sandflats not covered by seawater at low tide	
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- 7.6.6. Habitat loss/fragmentation: In terms of the zone of influence, I note that the site is not within or immediately adjacent to a European site and therefore there will be no loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development. The site does not contain any habitats listed under Annex I of the Habitats Directive.
- 7.6.7. Habitat disturbance/species disturbance: With regard to direct impacts of habitat loss and disturbance, the application site is not located adjacent or within a European site. Given the scale of works involved, the nature of the existing intervening urbanised environment, and distances involved to European sites, habitat disturbance is unlikely to occur. With regard to indirect impacts, the area around the proposed development has not been identified as an ex-situ site for qualifying interests of a designated site, and the lands themselves are not suitable for ex-situ feeding or roosting of wetland birds. The site is too far from bird roosting areas to result in impacts from noise or other forms of human disturbance during construction and operation
- 7.6.8. Habitat degradation as a result of hydrological impact: There is no direct pathway from the site to any European site. I note the location of Ballaghmore Stream and potential for indirect connection via surface water run-off during construction and operation. However, given the scale of works involved, separation distance from Ballaghmore Stream and overall separation distance involved to the River Slaney Valley SAC (specifically the distance to tidal stretches of the River Slaney which support qualifying interests) habitat degradation is unlikely to occur either during the construction or operation phase.
- 7.6.9. Habitat degradation as a result of hydrogeological impacts: In the unlikely event that pollutants enter the ground water, I note the distance of the site from River Slaney Valley SAC, and the lack of a direct hydrological link. I am satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of any European

sites, either alone or in combination with any other plans or projects, as a result of hydrogeological effects.

7.6.10. Cumulative Impacts: Other relevant projects, plans and applications in the region have been considered, including the Carlow County Development Plan 2022-2028 (subject to SEA) and proposed and permitted developments in the area, all of which are subject to appropriate assessment screening in themselves. No cumulative impacts are considered to arise.

7.6.11. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude that on the basis of the information on the 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 European Site No. 000781 (Slaney River Valley SAC) or any other European sites, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7. Other Matters

7.7.1. The appellant considers that given planning history of the site, permission should not be granted. I note each application on a site is assessed de novo on its own merits.

7.7.2. I note policy IW.P5 requires a 10m wide biodiversity protection (buffer) along streams. The landscape plan shows no development in this area and states 'existing woodland copse and stream to be retained'. In the interests of clarity, I consider a condition would be warranted requiring that area to be maintained as a riparian corridor, which should be cordoned off during construction.

8.0 Recommendation

8.1. It is recommended that planning permission consequent on the grant of outline planning permission be granted for the proposed development, subject to compliance with the conditions below.

9.0 Reasons and Considerations

Having regard to planning ref. ABP-308147-20, to the nature of the proposed development, to the pattern of existing development in the area, to the location of the site as set out under the operative Carlow County Development Plan 2022 – 2028, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, and would not conflict with the objectives of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>All relevant conditions attached to the grant of outline planning permission associated with the subject site (reference number ABP-308147-20 refers), shall be strictly adhered to.</p> <p>Reason: In the interests of residential amenity.</p>
3.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none">• Details of the front boundary treatment shall be amended such that the wings walls at the entrance shall be 1.1m high and shall comprise natural stone or alternatively a timber post and rail fence, with details in relation to

	<p>the materials and finishes to the entrance gate to be agreed in writing with the planning authority.</p> <ul style="list-style-type: none"> • A 10m biodiversity protection (buffer) zone measured from the top bank of Ballaghmore Distributary/Stream along the southern boundary of the site shall be maintained free from development. • Sightlines at the vehicular site entrance shall be as per the requirements of the Design Manual for Urban Roads and Streets and to the satisfaction of the planning authority. <p>Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the area.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p>

	<p>(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>All public service cables associated with the proposed development (such as electrical, television, telephone and broadband cables) shall be located underground within the site.</p> <p>Reason: In the interest of visual and residential amenity, and of sustainable development.</p>
8.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and, if the need arises for cleaning works to be carried out on the adjoining public roads, the cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.</p>
9.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be</p>

	<p>submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This CEMP shall incorporate the following details:</p> <ul style="list-style-type: none"> • measures to avoid any pollution through surface water runoff or accidental discharges during the construction of the proposed development reaching the Ballaghmore Distributary/Stream; • intended construction practice for the development • a detailed traffic management plan; • hours of working; • noise management measures and • off-site disposal of construction/demolition waste. <p>Reason: In the interests of public safety and residential amenity.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Una O'Neill
Senior Planning Inspector

5th October 2022