



An
Bord
Pleanála

Inspector's Report ABP-313013-22

Development	Entrance and partially constructed driveway and outline permission for construction of a house.
Location	Ross Road, Ross, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	21121
Applicant(s)	Morgan Byrne
Type of Application	Permission/ Outline Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Pat McCarthy Mary T. Kelly Friends of the Irish Environment
Observer(s)	An Taisce
Date of Site Inspection	18th of May 2022.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site is located south of a small village called Mucklagh in Co. Offaly. Mucklagh is a townland and village in County Offaly, Ireland. It is located 5 km southwest of Tullamore. As of the 2016 census, the population of Mucklagh was 826 people.
- 1.2. The site is located along the Ross Road. Ross Road has a high concentration of linear developments near the village. Further south, Ross Road is aligned with mature forestry punctuated by houses on large curtilages.
- 1.3. Ross Road is a picturesque road in close proximity to the site where there is a canopy of mature trees aligning both sides of the road.
- 1.4. There is no screening along the northern site boundary. There is a bungalow on a large curtilage immediately north of the site. The western site boundary is a drainage ditch.

2.0 Proposed Development

- 2.1. The description of the development is as follows:
 - **Retention** of entrance and partially constructed driveway
 - **Outline** Permission to construct house, garage, effluent treatment system and ancillary site services.
- 2.2 Water supply is by public water mains, sewage treatment by a private treatment plant and surface water to be disposed of via soakpits.

3.0 Planning Authority Decision

3.1. Decision

On the 8th of March 2022 Offaly Co. Co. grant permission for retention of the entrance and Outline Planning Permission for a dwelling house subject to 13No. standard planning conditions. The principal conditions are as follows:

1. The development shall be carried out in accordance with the plans and particulars submitted on 11/3/2021 and the revised details submitted on 27/01/2022 and 10/02/2022.

2. Approval is required for the dwelling house
5. Roadside boundary
10. Occupancy condition
11. Wastewater treatment plant

3.2. Planning Authority Reports

3.2.1. Planning Reports

The applicant is living on the Ross Road at the parental home since 1991, however another form on file states the applicant lives in Tullamore.

The site splay is outside of the applicant's ownership. (Ownership of the site is subject to gaining planning permission).

The site has been partially infilled at the entrance and additional infilling is required for the dwelling.

Sight distances are acceptable.

3.2.2. Other Technical Reports

- Area Engineer: No objections and conditions are recommended relating to the roadside boundary, drainage, surface water, construction period.
- Environment and Water services: No objection subject to conditions relating to storm water, waste management, noise.

3.3. Prescribed Bodies

An Taisce:

The site is an important area of mature woodland, which should be protected to the greatest extent possible. There is potential presence of protected species in the area, notably pine martin and red squirrel. There is a watercourse that bounds the western site boundary. Further ecology reports required.

3.4. Third Party Observations

There were a number of third-party objections to the proposed development citing the following concerns:

- Ownership is disputed
- Potential pollution to stream
- Building line
- Privacy
- Road and Traffic safety
- Flood risk
- Biodiversity and environmental impacts.

4.0 Planning History

4.1 Planning Reference 04/1103 went to appeal. The Board refused planning permission for the retention of an existing temporary site entrance and permission to construct a raised percolation area, for a single dwelling house. The board refused permission for the development because it was considered to a piecemeal and haphazard form of development, and the entrance is at a point where sightlines are restricted and the development would endanger public safety y reason of a traffic hazard.

5.0 Policy Context

5.1. National Policy

5.1.1 *National Planning Framework – Project Ireland 2040, DoHP&LG 2018*

The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e.

the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.2 ***Sustainable Rural Housing Development Guidelines 2005***

The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.2. **Development Plan**

5.2.1 **Offaly County Development Plan 2021-2027**

2.1.6 Core Strategy Map

The subject site is located within a designated area called ***Rural Areas Under Strong Urban Influence*** These areas exhibit characteristics such as: • Proximity to immediate environs or close commuting catchment of cities / large towns • Rapidly rising population • Pressure for residential development due to proximity to urban area / major transport corridors • Pressure on infrastructure

(D) Open Countryside Housing in Rural Areas under Strong Urban Influence and Stronger Rural Areas, and Areas of Special Control Rural Areas under Strong Urban Influence and Stronger Rural Areas include:

- Electoral Divisions where at least 15% of their workforce commute to a town of population over 10,000 or a town with more than 2,500 jobs.

Areas of Special Control include:

- National/International Conservation Designations (Special Protection Areas, Special Areas of Conservation, Natural Heritage Areas)
- Areas of High Amenity
- Source Protection Zones
- Restricted Regional Roads Refer to Figure 2.6 (included in Appendix of this report)

SSP-27 Having regard to the need to protect County Offaly's natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (1-4) can be demonstrated:

1. The applicant has a **functional economic or social requirement** to reside in this particular rural area in accordance with (i) or (ii): (i) Economic requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Economic Requirement in County Offaly shall be taken as including persons who by the nature of their work have a functional economic need to reside in the local rural area close to their place of work. It includes persons involved in full-time farming, horticulture or forestry as well as similar rural-based part-time occupations where it can be demonstrated that it is the predominant occupation. The 'local rural area' is defined as the area generally within 8km radius (5km radius particular to Areas of Special Control) of the place of work. Or
2. (ii) **Social requirements** will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Social Requirement in County Offaly shall be taken as including (a) or (b) below:

(a) The applicant was born within **the local rural area** or is living or has lived in the local rural area for a minimum of 5 years (15 years particular to Areas of Special Control) at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local rural area. The 'Local Rural Area' for the purpose of this policy is defined as the area generally within an 8km radius (5km radius particular to Areas of Special Control) of where the applicant was born, living Offaly County Development Plan 2021-2027 Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy Page 57 or has lived. For the purpose of this policy, the rural area is taken to include 'Villages' listed in the Settlement Hierarchy, but excludes Tullamore, Birr, Edenderry, Portarlington, Banagher, Clara, Daingean, Ferbane and Kilcormac (i.e. the Key Town, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Smaller Towns listed in the Settlement Hierarchy. Or

(b) Special consideration shall be given in cases of **exceptional health circumstances** - supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support or requires a close family member to live in close proximity to that person.

2. The applicant does not already own or has not owned a house in the open countryside.

3. If the site is located within an Area of Special Control, there is no alternative site outside of Areas of Special Control.

4. High quality siting and design.

5.3. Natural Heritage Designations

5.3.1 The site is not within or adjoining a European site. The closest Natura 200 site is Site No. 00571, Charleville Wood SAC, which is located less than 1km east of the site.

5.3.2 There are a number of proposed Natural Heritage Areas which are located in the locality but not within a general vicinity of the site.

5.4. EIA Screening

Having regard to the nature and scale of the proposed development and separation from sensitive environmental receptors, I am satisfied that the proposed development is unlikely to have significant impacts on the environment arise from the proposed development and therefore does not require EIA.

6.0 The Appeal

6.1. Grounds of Appeal

There are two appeals summarised below.

6.1.1 *Friends of the Irish Environment*

Friends of the Environment was established in 1997 by a network of environmentalists to work for increased biodiversity and the environment. Unauthorised works occurred on the site in 2003 relating to an alleged unauthorised access and access road.

The application should be dealt with by an application for substitute consent. The activities by the developer are well documented and disqualify him from this form of consent. The applicant failed to answer the further information regarding the Council's serious concerns regarding the possible facilitation of unauthorised development, namely previous infilling of the site without the benefit of planning permission or a waste licence.

The site is environmentally unsuitable as signalled by the applicant's failure to complete the required information in the Site Characteristic Form requiring the applicant to record water levels in any drainage ditches. The applicant further misdirected the local authority in suggesting that the nearest watercourse is 1.5km, when such a watercourse forms the site boundary.

The Council has a policy to protect woodlands and to encourage new development into existing towns and villages to avoid sporadic and haphazard development.

NHP-19 – it is Council policy to promote the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees.

BLO-14 It is an objective of the Council to encourage the preservation and enhancement of native and semi-native woodlands, groups of trees and individual trees not listed in Table 4.14 and 4.15.

There are questions arise as to why the local authority did not inform the Forest Service of the unauthorised felling of trees in 2003 and 2004. The entire site - 1.5acres will be incrementally cleared. The human intrusions on the environment as a result of this development will impact on the natural fauna, and surface waters.

It is suggested on the file by An Bord Pleanala (ABP PL 19209227) that the issues raised by the appellant such as the development creating undesirable ribbon development is contrary to the development plan. The proposal represented piecemeal and haphazard development. The issue of undesirable ribbon development was not addressed in the current application. Developments should move away form sprawl like developments.

The specific site is unsuitable for infill development. A height differential of 1.5metres from the site to the road requires substantial infill. In December 2003, the Environment Section suspended the waste permit application due to unauthorised works on site and it was necessary for planning permission to be obtained first.

The site is composed of in part unauthorised infill of unknown waste not suitable for percolation or the protection of an aquifer or watercourse. For a soil or subsoil to be effective as a medium for treating wastewater, it should be permeable enough to allow through-flow and remain unsaturated while being capable of retaining waste for a sufficient length of time to allow attenuation in the aerobic conditions. When importing soils/ subsoils onto the site as part of site improvement works or the construction of a wastewater treatment plant, its necessary to perform testing of each 300mm layer while the process of emplacing lifts of soil progresses. After each lift is placed, percolation tests should be carried out, and this was not done.

The applicant states the site ahs no stream. Section 3 of the onsite assessment 'Drainage Ditches' has been left blank, and it states No watercourses located close to the site. On these grounds alone the application should have been rejected as there is a stream bounding the site.

The applicant relies heavily on qualifying under the local needs policy. As early as 2005 the Law Societies Reform Committee determined that it was discriminatory to associated with family connections to a local area and would be in breach of EU law.

In 2007, the EU issued a letter to Ireland to this affect. The Board must meet with the EC ruling of 2013 under joined cases C-197-11 and C203-11. The local needs policy needs to be turned on its head to ensure less economically advantaged members of society are assaulted instead of favouring an applicant with substantial means and property.

6.1.2 *Mary T. Kelly, Ross Road, Screggan, Tullamore, Co. Offaly*

Pat McCarthy, Ross Road, Screggan, Tullamore, Co. Offaly

Both detailed third-party appeals are similar in content and at times repetitive in content. In order to avoid undue repetition, I have summarised their content collectively.

There is a protracted history associated with the site. On 6th of June 2003 a large area of woodland was destroyed, and a number of trees were cut down without a Felling Licence. On the same date an entrance was created without the benefit of planning permission. On the same date a large amount of material was imported onto the site. On 6th of November 2003 a Waste Permit application was lodged with Offaly Co. Co. The waste permit application was suspended as the applicant had to apply for planning permission. Despite a Warning Letter issued on 11th of June 32003, the applicant sent in a large excavator on Friday 9th of April 2004 and additional trees were felled and filling materials was emptied into the site. A waste permit was issued by Offaly Co. Co. on 9th of June 2004 in relation to the deposit of uncontaminated soil and stones at the site. Planning permission was granted on 15th of September 2004 for retention of an existing temporary site entrance and permission to construct a percolation area. The decision was appealed to An Bord Pleanala, and the Board refused the development on 21st of February 2005.

In respect of the current application there is retention permission sought for activities which were carried out without planning permission, and outline permission cannot be made for retention application.

- The appellant owns the abutting land to the west and south of the site. There is a boundary stream running the entire length of the west side which is used for domestic purposes. The stream should not be included on the drawings as boundary purposes. The applicant has provided measurements which include the stream and a portion of the appellants property which should be

removed. He does not own the stream. The application is invalid on this basis.

- The proposed garage is 0.6m from the edge of the stream and the proposed dwelling is 8.8metres from the stream, which is not in line with development plan standards, Section 14.2.14 Biodiversity/ Riparian Buffer Zones.
- Strongly object to the pollution of the stream from run off, ponding or effluent, from infill/ construction. No discharge is permitted to the stream as the potential for pollution is high. The underlying soil is peat and it is very easily contaminated due to the high water content. The site suitability report identifies it was a site with high vulnerability. There is further danger of ground water contamination. The adjoining well could be at risk of contamination.
- The following files refer to the same site and applicant: PL2/98/952, UD/03/27, WP44/03, PL2/04/973, PI2/04/1103 and UD/20/031. The applicant's calculations of filling to 237sq.m. with an average depth of 300mm is totally misleading and inaccurate. There were multiples of loads of trucks delivering and dumping materials over two days, photographs attached. It was contaminated material from a construction site.
- The owner is in breach of :
Envo-14, Envo -15, Envo-16 and Envo-18 as per the development plan.
- There are 14No. entrances along the road from the slope of the hill to the junction at Screggan Bog. This is a busy road. Adequate sightlines, 90metres in both directions, is required. This would require the removal of nature trees, and an established habitat. The applicant has not received permission from the landowner to setback the roadside boundary to provide 90metres sightlines. There are red squirrels and pine martins within the habitat. The site needs to be evaluated for biodiversity and suitability in advance of being developed.
- The existing site levels are not clearly defined, and the proposed site levels are not clearly defined. The file states the site will be raised by 2metres which will cause serious problems for her property and devastate the environment. It is totally unacceptable. Any further infilling of the site will be detrimental to

her property which is below the level of road. The huge ceiling height windows to the rear and side of the house would affect the use of the garden and their privacy. There will be overshadowing of her garden.

- According to the development plan the applicant must come within the criteria for local need. The applicant currently owns a house in Tullamore which he purchased in 2019 and is located 8km from the subject site. His place of business is also Tullamore. The applicant says he has sale agreed on the property since April 2021. The applicant still owns the property as per the land registry 12th of February 2022.

The site suitability report was carried out by the owner who is a property developer and does not meet with local housing needs.

The proposed development represents haphazard development in proximity to settlements in whereby lands are designated for residential development. The proposed would materially contravene the rural housing of Offaly Co. Co. In terms of NPF Objective 19, the applicant has not demonstrated a social and economic need to live in the area. The proposal is encroachment of housing into a rural area.

- The proposed development does not follow the established building line.
- The proposed polishing system is too close to the stream at only 3.8metres.
- The proposed dwelling and garage are both too close to the stream.
- The public road is prone to flooding especially after heavy periods of rain. In addition, the excavation works which would need to be carried out for site development together with material which would be required to be deposited would weaken the stability of the public road and endanger public safety by reason of a traffic hazard.
- Screggan Bog Natural Heritage Area S.I. 581/2005 Site Code 00921 is located 1.4km from the site. This local amenity must be preserved the woodlands is enjoyed by the local community.
- Two previous planning applications were submitted in the locality and refused. Neither involved the removal of trees and did not have watercourses within

them. Both sites were part of a family holding, and neither would give rise to ribbon development. Yet they were both refused.

- The applicant has insufficient legal interest in the site. Is the application a bone fide application or a means of circumventing proper planning procedure as the landowner, a property developer, carried out the site suitability report.
- There are numerous alternative sites available that would not result in the loss of mature trees.

6.2. Applicant Response

Murray Architectural Services has made two submissions on behalf of the applicant regarding the appeals received by the Board. The concerns of the objectors and the merits of the application were assessed in the Planning Report.

It is claimed there has been an incremental loss of biodiversity and the environment over 25 years, although no evidence has been provided to support these claims. In fact there are one off houses in the area that have not impacted on the biodiversity of the area, and the current proposal can be built without causing harm to the biodiversity or environment.

- It is generally considered that two of the appeals are residents of Ross Road residing in the same household, and their concerns were considered by the planning authority who granted planning permission for the development. The third appellant is an environmental group, provides no reasoning why Appropriate Assessment is required on the site, and the appeal submission does not refer to or address the accompanying Appropriate Assessment Screening with the planning application.
- **Site Ownership** The proposed development is solely within the confines of the area of land outlined in red on the extract from the Property Registration Authority. The site is presently unregistered. It has been surveyed using GPS Total Station Survey and the boundaries correspond with the above mentioned map. The site does not encroach on neighbouring boundaries.
- **Local Need:** The applicable policy (SSp-27) of the Development Plan, and there is a positive presumption in favour of single houses when need is demonstrated. The applicant meets with local housing need. The property in

Tullamore is not the applicant's home. In addition, the house in the town did not fall within the rural category. The applicant is a local person and not a developer. The unauthorised works carried out in 2003 has nothing to do with the current applicant, and this matter is irrelevant to the appeal.

- **Siting of House, Garage and Sightlines:** The submitted drawings show the proposed change in existing and finished floor levels- the change being proposed at some 70.89 at the top of the open ditch to 71.8 ffl of the proposed new house. Conditions 2 and 3 require full details of the proposed house and landscaping to be submitted for approval. This will address matters relating to siting, design and external appearance, impact on neighbours, visual impact on rural area including tree loss and planting.

There is essential removal of vegetation to create sight distance, new landscaping will be provided outside of the splay area, including native hedgerow, in accordance with DMS-38 There will be minimal disruption to the front boundary to achieve sight distance.

It is not clear where the 3rd party comments regarding set back distances from watercourses is referenced, although the extract included in the documents refers to the now superseded development plan. Conversely the up-to-date Policy DMS-25 states that a 10m riparian strip should be available to the watercourse – this can be provided.

The dwelling can be built on the site without adverse impact on the landscape, ecology and residential amenity.

- **Biodiversity :** On the sight distance drawing, marked E, the sightlines are coloured in magenta and it is clear the front trees along the front are behind sightlines and will not be removed.
- **Water contamination :** The planning authority identified a number of appropriate conditions regarding the requirement for the submission and approval of technical information, prior to development commencing. The applicant will comply with the conditions.
- **Previous Planning History:** The applicant Morgan Byrne demonstrates compliance with the local need policy. The previous refusal was based on piecemeal development as An Bord Pleanála could not grant permission for

access, percolation without any further form of development. The current proposal addressed this issue.

- **Retention:** The extent of the unauthorised filling on the driveway by way of its volume, area and approximate depth has been submitted to support the planning application. The filling is now fully absorbent into the woodland landscape and is not visible. It was necessary to include it as the retention part of the application in order to obtain the outline permission for Morgan's house. The retention application was designed to equate to gaining planning permission by stealth by any means. It should be noted the applicant has not carried out any unauthorised works. There is unauthorised works carried out to the site in 2003 and the current application seeks to regularise those works.
- **Failure to answer Further Information :** There is no evidence to support these claims . The planning authority was satisfied with the response and assessed the application on the information.
- **Drainage ditch** The appeals give the impression there is a large watercourse abutting the site, in reality it is a dry ditch that acts as a drainage channel in the wet weather months. It is not discharging to any major river or stream. As the ditch is dry, the water level is no existent.
- **Ross Road** is sparsely populated. There are 7No. existing houses which measures 400m x350m, which equates to 14Ha showing a density of one house for every 4.94acres. This is hardly sprawl.
- **Sewage Treatment:** The site suitability report and the sewage treatment design was prepared by OCC Environmental Section. The proposal and the tests were carried out in accordance with the EPA Code of Practice.

6.3. Planning Authority Response

The planning authority has no further comment to make.

6.4 Observers

An Taisce:

The site is an important area of mature woodland, which should be protected to the greatest extent possible. There is potential presence of protected species in the

area, notably pine martin and red squirrel. There is a watercourse that bounds the western site boundary. Further ecology reports required.

7.0 Assessment

7.1. I inspected the site and considered the content of the appeal file. In my opinion the relevant issues to be assessed under this appeal are housing need in a rural area and impact on amenities. The appeal will be assessed under the following headings:

- National Policy & Development Plan Considerations
- Siting and Design
- Sightlines
- Other Issues
- Appropriate Assessment

7.1. National Policy & Development Plan Considerations

7.1.1 According to the *National Planning Framework – Project Ireland 2040*, a key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas. I consider relevant to the current proposal is **National Policy Objective 19** of the National Planning Framework, which refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. Having examined the planning application content, I do not believe the applicant Mr. Morgan Byrne has established a social and economic need to live in this rural area under strong urban pressure. His only social basis is that he lives at the parental home along Ross Road.

7.1.1. The ‘*Sustainable Rural Housing – Guidelines for Planning Authorities*’, issued by the Department of the Environment, Heritage and Local Government in April 2005; indicate that the site is located within an area under strong urban influence– in this instance, largely but not solely, arising from the proximity to Tullamore. “In such areas, population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas”. The applicant, Morgan Byrne, has connections with this rural area, and the planning application form indicates he currently lives on Ross Road, where the site is located. He has lived at the parental home along Ross Road since 1991. The site does not form part of a family landholding, but rather, is to be purchased from the landowner. The *Guidelines* refer to favourable consideration being given to those working full-time or part-time in rural areas, or persons whose work relates to rural areas – such as teachers in rural schools. The *Guidelines* would appear to compass the notion of a rural-based job linked to one particular area – as opposed to say a builder, sales representative, mechanic – whose work would take them over a wide rural area. I would not consider that the applicant meets the requirement of persons working full-time or part-time in rural areas – by reference to the *Guidelines*.

The site is located in open countryside, and the relevant development plan policy is outlined in the current Offaly County Development Plan 2021-2027 is:

SSP-27 *Having regard to the need to protect County Offaly’s natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (1-4) can be demonstrated: (as appended to this report)*

The applicant has a **functional economic or social requirement** to reside in this particular rural area in accordance with (i) or (ii):

- (i) Economic requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars.
- (ii) Social requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable,

circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Social Requirement in County Offaly shall be taken as including (a) or (b) below:

(a) The applicant was born within **the local rural area** or is living or has lived in the local rural area for a minimum of 5 years (15 years particular to Areas of Special Control) at any stage prior to making the planning application. The 'Local Rural Area' for the purpose of this policy is defined as the area generally within an 8km radius (5km radius particular to Areas of Special Control) of where the applicant was born, living Offaly County Development Plan 2021-2027 Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy or has lived. Or

(b) Exceptional Health Circumstances

From my reading of the planning application file, the applicant has not made an adequate or satisfactory case to reside on Ross Road for social and economic purposes. Having regard to the content and principle of Objective 19 of the National Planning Framework, the applicant does not comply with National policy. Although the planning authority considered the applicant did comply with the rural housing policy SSP-27 statement, I fail to understand from the assessment in the on-file Planning Reports how this compliance was considered and favourably assessed by the planning authority. From my reading of the Planning Report on the planning application file, the planning authority considered the fact the applicant has lived at the family home on the Ross Road since 1991 to be sufficient justification for permitting a house in an unserviced rural area.

7.1.3 Having regard to the location of the site within a pressure area of the county, I would not consider that the applicant has demonstrated a social or economic need to reside in this rural area of the county, and permission should be refused on this basis.

7.2 **Siting and Design Considerations**

The development applied for is in two parts. Firstly, the retention of the entrance and partially constructed driveway secondly outline planning permission for a dwelling house.

The site is located within an extensive plantation of trees along the western side of Ross Road south of Mucklagh village settlement. At the location of the site, there is a canopy of trees on both sides of Ross Road. The subject site is 0.652Ha, with a flat configuration, which includes a long roadside boundary. The site has been partially filled-in, in particular at the proposed entrance/ access road. There is a dwelling house to the north, and its garden curtilage and front elevation can be viewed from the site. There are two large dwellings on the opposite side of Ross Road to the site.

An indicative site layout accompanying the planning application, includes a proposed two-storey dwelling to the north of the site, with a large proportion of the existing trees on site to be retained. The site is lower than the level of the road and has been artificially filled several years ago. The access is located at the northern end of the roadside boundary.

Further north along Ross Road there is a multitude of one-off houses aligning the road. I would consider this to be extensive linear development south of Mucklagh village. Although the individual sites/ domestic curtilages are larger and the density of lower in the general vicinity of the site, to permit another dwelling along Ross Road at this location will remove another valuable undeveloped stretch of road which is currently preserving the rural character of the area. I consider the proposed development is a haphazard piecemeal form of development in a rural area under development pressure for one off housing most likely due to its proximity to Tullamore town. This is a greenfield, forested site, which is unsuitable for residential development due to the low-lying configuration of the site, high water table, and loss of mature trees and visual amenity. In my opinion, the development of the site is unjustifiable in planning terms and the design and layout of the dwelling will detract from the visual and environmental qualities of the area.

7.3 Sightlines

The sightlines are acceptable and will involve the alteration of third party lands, and the owner has consented to the required adjustments to the roadside boundary. The road is acceptable in terms of vertical and horizontal alignment.

7.3 Other Issues

- The appeals express a lot of concern regarding unauthorised works that occurred on the site back in 2003. These works are not relevant to the

current appeal and beyond the remit of the Board. Furthermore, the works do not appear to be relevant to the current applicant.

- There is a drainage ditch along the western (rear) site boundary. This is not a permanent watercourse, and it was a dry ditch during my inspection.
- There was an Ecological Report prepared, and included with the planning application documentation. It was prepared by Dulra is Duchas in January 2022. The report findings stated the proposed dwelling is to be located on the northern portion of the site. There is no proposal to remove the woodland. Wildlife corridors and landscape connectivity will remain. The construction works will not lead to a negative impact on Ross Wood and the biodiversity the wood supports.

7.4 Appropriate Assessment

Having regard to the nature and scale of the development proposed and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distance to the nearest European site (Charleville Woods SAC) which is located approximately 1.7km to the east of the site. There are no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be REFUSED for the following reason.

9.0 Reasons and Considerations

Having regard to the location of the site within a Rural Area Under Strong Urban Influence according to the Offaly County Development Plan 2021-2027 and to National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, facilitates the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in the rural area having regard to the viability of

smaller towns and rural settlements, it is considered on the basis of the information on the file, the applicant has not demonstrated an economic or social need to live in this particular rural area, and having regard to the viability of smaller towns and rural settlements such as Tullamore and Mucklagh, that the proposed development does not comply with National Policy Objective 19. It is considered that the proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would contravene the provisions of the National Planning framework. The proposed development would therefore be contrary to the proper planning and development of the area.

Caryn Coogan
Planning Inspector

27th of July 2022