



An
Bord
Pleanála

Inspector's Report

ABP-313147-22

Development	Dwelling house, septic tank & percolation area, garage/store & entrance.
Location	Cloonalaghan, CloghJordan, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	21675
Applicant	Amanda Byrne
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Linda White
Date of Site Inspection	16 th June 2022
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Cloonalaghan, CloghJordan, Co. Offaly, near the south western tip of Co. Offaly close to the settlement of CloghJordan, Co. Tipperary.
- 1.1.2. The site is on a narrow minor county road, adjoining an existing house. The field in which the site is located extends to the north of the existing house where the field opening is located.
- 1.1.3. The site is part of a field in pasture and is undefined on two boundaries. The northern boundary is shared with the adjoining dwelling and extends to the rear of that property; the frontage to the subject site comprises a thick hedge along the roadway, the other boundaries are undefined.
- 1.1.4. At the eastern end of the field there is woodland. A forestry plantation adjoins the field to the south. A specimen tree is located towards the rear of the site. Land in the area falls towards the south. A drain separates the land from the forestry.
- 1.1.5. The site is given as 0.3ha.

2.0 Proposed Development

- 2.1.1. The proposed development comprises a single storey bungalow style dwelling house floor area 160m² and height of 6.1m, a septic tank & percolation area, and a garage/store & entrance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to 14 conditions, including:
 - 2) occupancy condition.
 - 3) materials and finishes – windows to be timber or timber effect or of a colour, design and material, which shall be agreed in writing with the planning authority. No neo-Georgian style plastic glazing bars or other decorations are permitted. No

floodlighting is permitted. Any stone facing to be of natural stone and pointing to be recessed or flush.

8 a) surface water run off from the roofs, roads and hardstanding areas shall be collected and disposed of within the site to suitable soakaways. No such surface water run off shall be allowed to flow onto the public roadway or other adjoining properties.

b) soakaways shall not be built within 5m of buildings, percolation areas, roads, etc, per section 1.5.8 of the Building Regulations 2010, Technical Guidance Document H, Drainage and Waste Water Disposal.

Reason: In the interests of traffic safety and orderly development.

11) finished floor levels to be as submitted.

12) The site shall be landscaped as follows:

a) As indicated on Drawing No DGW/FI/02 (Landscape Detail Map) received by the Planning Authority on the 2nd February 2022.

b) Infill landscaping (where required) on the existing boundaries shall be planted with native broadleaf trees (minimum size: heavy standard 12-14cm girth).

c) The proposed boundaries of the site shall be planted with a continuous hedge of indigenous species (eg holly, hawthorn) on the inside of the boundary fence. Species to be used shall not include either cupressocyparis x lelandii or grisellinia.

d) native broadleaf trees (minimum size: heavy standard 12-14cm girth) shall be planted in informal clusters throughout the site.

e) this landscaping shall be implemented not later than the first planting season after commencement of the development. any planting that is diseased or fails within 2 years of planting shall be replaced.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on the file. The first, 21st December 2021, recommending a further information request, (which issued 21st December 2021), includes:

- Referring to the 2021-2027 county development plan, policy SSP-27 in relation to dwellings in rural areas, applicant is required to further demonstrate compliance.
- Referring to reports on the file – further information in relation to removal of road boundary to provide sightlines and setting back of boundary.
- AA screening report concludes that significant impact on a European site is unlikely.

3.2.2. Other Technical Reports

3.2.3. Water Services and Environment, 17th December 2021 - further information required:

Engage with IW, this will start a process which comprises 1) pre-connection enquiry, 2) confirmation of feasibility, 3) design vetting, 4) development of planning application.

Submit the completed water supply design to Offaly Co Co together with the IW confirmation of feasibility letter.

Also recommending conditions.

3.2.4. Municipal Engineer, 15^h December 2021 – further information required:

Confirm distance A-B (length of front boundary outside curtilage to be removed) on sightline map; and provide letter of consent from landowner, for removal of hedgerow. Confirm what the new front boundary will be. New front boundary shall be set back 3m from the edge of the public road. Revise site layout drawing to show 'aco' drainage channel between the two inner piers at the entrance, suitable for vehicular traffic. It shall be piped to a silt-trap with trafficable inspection cover and to a soak-away within the site. Applicant to make provision for surface water drainage from road and verge.

3.3. Further Information

3.3.1. Further Information request which issued included:

1) applicant is required to further demonstrate compliance SSP-27 of 2021-2027 county development plan, policy in relation to dwellings in rural areas.

2) re. hard and soft landscaping.

3) engage with IW and submit results.

4) regarding sightline provision.

5) entrance details.

6) respond to third party submission.

3.3.2. The further information response included:

1) further information in relation to compliance SSP-27 of 2021-2027 county development plan, policy in relation to dwellings in rural areas.

2) hard and soft landscaping proposals.

3) letter from IW stating feasible water connection without infrastructure upgrade.

4) showing sightline provision to south; letter of consent.

5) drawing showing entrance details.

6) response to third party submission: re flooding, percolation test conducted in October 2021, photos taken on 31st December 2021 after 24 hours of continuous heavy rain. Owners of land confirm no water lodging since 1985. The tree mentioned is not on the site and not a matter for the application. Photographs responding to the privacy concerns. Re. trees on adjoining site, they will upkeep the branches that come onto the site.

3.4. **Further Reports**

3.4.1. Reports following the response to the further information request:

3.4.2. Municipal Engineer Birr, 28^h February 2022 – standard conditions.

3.4.3. Water Services and Environment, 7th February 2022 – conditions.

3.4.4. Planning December, 28^h February 2022 satisfied with responses, recommending permission.

3.5. **Third Party Observations**

3.5.1. A third party observation on the file has been read and noted.

4.0 Planning History

PI2/07/884 Donal Sugrue, the construction of a house, permission granted.

5.0 Policy Context

5.1. Development Plan

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

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

(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 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.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura sites are: Scohaboy Bog SAC (site code 002206), 6.47km to the north-west. Sharavogue Bog (site code 000585) 7km to the north-east.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third party appeal by Linda White includes:

- Road – substandard, traffic has increased, development will endanger traffic.
- Topography – low lying, in a ravine and subject to flooding. It will require significant import of infill to bring it to the level of her house.
- The percolation test was carried out at the highest point within the site and will lead to ponding.
- Local wildlife – evidence of significant bat population hibernating on very mature trees at the edge of the site, development will impact.
- Water supply – water supply is intermittent. This is a very old supply and needs significant upgrading/investment.
- General planning designation in the area – the location is high in biodiversity and existing vegetation. It should be prioritised as an area of high environmental value. These rural areas and rural wetlands should be preserved.
- Protecting the sensitive rural area – sensitive rural amenity is continuing to be eroded.
- Privacy – concerns remain that the proposed development will impact on the privacy of the existing residence. Lights of cars parked in the driveway could shine directly into the existing residence due to sloping / gradient of the site. Visibility from the front is of concern as bedroom and kitchen can be seen.

6.2. Applicant Response

Brian D Grace Engineering Consultancy have responded to the grounds of appeal, on behalf of the applicant.

- The local road was considered acceptable by the planning authority. Further information was requested in relation to hedgerow removal and sightline provision and the response was considered adequate. No evidence is provided by the appellant that the road has become busier; or is dangerous.
- Topography – the site is not in a ravine. The appellant's house has a floor level of 99.2m, the proposed house 97.4m, 1.8m lower. Her concerns re. infilling are unfounded.
- The site suitability tests show site conditions. There will be no ponding. Condition no. 6 refers.
- Local wildlife – the proposed development will not interfere with the mature trees on the edge of the site. The proposed dwelling will be further from the mature trees than the existing dwelling. No evidence of wildlife has been provided by the appellant.
- Water supply – there is an existing public water supply in the roadway in front of the site, condition no 7 refers. The claims of the appellant are unsubstantiated. She should contact Irish Water if she is experiencing problems. It is highly possible that the problems may be within her site.
- General Wildlife in the area – screening for AA was carried out by the PA.
- Protecting the sensitive rural area – this is considered seriously by the PA. Policies are set out in the 2021-2027 CDP. The applicant was assessed under policy SSP-27 and deemed to qualify. Condition no. 2 refers.
- Privacy – lights in the driveway – see the site layout. Her house is at a floor level of 99.2m, a spot level in the driveway, in front of the house is 97.02m. Any cars parked in front of the house will be 2.18m below the appellant's house and there will be no danger of lights shining directly into the house.
- The hedgerow will be retained and reinforced. Landscaping will be carried out per condition no 12.

- The house design – there are two bedrooms at the north-eastern side and no windows in the gable wall. This fact, the level of the house, and its placement will ensure the continued privacy of the appellant's house.

6.3. Planning Authority Response

- 6.3.1. The planning authority have responded to the grounds of appeal, referring the Board to the technical reports on file.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, the principle of the development, road and traffic safety, biodiversity and rural amenities, water supply and privacy and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

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

7.3. Principle of the development.

- 7.3.1. The development of a dwelling in a rural area requires consideration under chapter 2, settlement strategy, of the CDP. The site is located in a Stronger Rural Area and therefore the applicant is required to satisfy policy SSP-27. One criterion is that 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; another is that the applicant does not already own or has not owned a house in the open countryside. The applicant satisfies these criteria.
- 7.3.2. The proposed development is acceptable in principle.

7.4. Road and Traffic Safety

- 7.4.1. The grounds of appeal states that the road is substandard, that traffic has increased since the COVID lockdown, and that the development will endanger traffic.
- 7.4.2. The response to the grounds of appeal is that no evidence is provided by the appellant that the road has become busier; or is dangerous, and the PA was satisfied with the further information response in relation to hedgerow removal and sightline provision.
- 7.4.3. In response to a further information request, the applicant revised the entrance design and has shown removal of hedgerow, together with landowner consent to its removal. The road is a narrow road, where the road width limits speed. There is limited non-agricultural development along the road and few entrances. An additional entrance to serve the proposed house will have little impact on traffic safety. The road / traffic safety should not be a reason to refuse or modify the proposed development.

7.5. Biodiversity and Rural Amenities

- 7.5.1. The grounds of appeal states that existing trees on the site could be used by bats, the area has high bio-diversity value, and the rural area should be protected from development.
- 7.5.2. The response to the grounds of appeal is that no evidence is provided by the appellant, that screening for AA has been carried out and that the applicant satisfies policy SSP-27 as having a local need.
- 7.5.3. This is a quiet rural area where agriculture (pasture) is the existing land use. It is similar to an average field of pasture in terms of biodiversity value. The proposed development will involve the removal of roadside hedge and replacement planting.
- 7.5.4. It is the policy of the planning authority, for reasons including the protection of rural amenities, to limit rural housing. As referred to under a previous heading, the applicant satisfies the local need criteria.
- 7.5.5. Impact on biodiversity or rural amenities should not be reasons to refuse or modify the proposed development.

7.6. **Water Supply**

- 7.6.1. The grounds of appeal states that water supply is intermittent, it is a very old supply and needs significant upgrading/investment.
- 7.6.2. The response to the grounds of appeal is that a public water supply is available and the appellant's claims are unsubstantiated.
- 7.6.3. Following the initial Water Services and Environment, report stating that further information was required, a request issued requiring the applicant to engage with IW.
- 7.6.4. In response to the request, the further information supplied included that Irish Water have confirmed that the outcome of the pre-connection enquiry is that they can confirm feasibility of connection to the network without infrastructure upgrade.
- 7.6.5. Water supply should not be a reason to refuse or modify the proposed development.

7.7. **Privacy**

- 7.7.1. The grounds of appeal states that concerns remain that the proposed development will impact on the privacy of the existing residence; lights of cars parked in the driveway could shine directly into the existing residence due to sloping / gradient of the site; and visibility from the front is of concern as bedroom and kitchen can be seen.
- 7.7.2. The response to the grounds of appeal is that the adjoining house is at a floor level of 99.2m; a spot level in the driveway, in front of the house is 97.02m. Any cars parked in front of the house will be 2.18m below the appellant's house and there will be no danger of lights shining directly into the house. The hedgerow will be retained and reinforced and landscaping will be carried out per condition no 12. The response also points out that the house design with bedrooms at the north-eastern side and no windows in the gable wall, the level of the house, and its placement will ensure the continued privacy of the appellant's house.
- 7.7.3. A substantial hedge separates the two sites. The existing dwelling is located close to the common boundary, about 1.5m away. The proposed dwelling is shown as 8.3m from the common boundary. Due to the proximity of the existing house to the road, the proposed house will be sited to its rear. A proposed garage is shown located

further to the rear. The difference in site levels and finished levels will reduce any overlooking impact.

- 7.7.4. The proposed development will involve a change of context for the existing house, which currently adjoins agricultural land on three sides , but there will be no undue encroachment on the privacy of that house, and privacy should not be a reason to refuse or modify the proposed development.

8.0 Recommendation

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

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Offaly County Development Plan 2021-2027, it is considered that, subject to compliance with the conditions set out below, the proposed development, which is the provision of a dwelling, in a rural area, for an applicant who has local need, would not seriously injure the amenities of the area, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 2 nd day of February 20212, 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>Reason: In the interest of clarity.</p>
2.	<p>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 orderly development.</p>
3.	<p>a) The proposed wastewater treatment system (WTS) shall be located, constructed, and maintained in accordance with the details submitted to the planning authority 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, 2021.</p> <p>The WTS shall be installed in accordance with the manufacturers guidelines and the details provided.</p> <p>All work shall be supervised and certified by a qualified and indemnified Engineer. A completion certificate shall be submitted to the planning authority upon installation and commissioning of the WTS and the percolation area. Photographic evidence of each stage of the works shall be included in the completion certificate submission.</p> <p>The WTS shall be visually inspected on a periodic basis and de-sludging shall be carried out in accordance with Article 3 of SI No 223 Water Services Act 2007 and 2012 (Domestic Wastewater Treatment Systems) Regulations 2012 or as recommended by the systems manufacturer.</p> <p>Reason: In the interest of public health and the protection of the environment.</p>
4.	<p>The boundary removal, sightline provision and entrance construction shall be carried out in accordance with drawing no DWG/FI/04 and DWG/FI/05. A new boundary hedge shall be planted, behind the new fence line. This</p>

	<p>work shall be carried out, to the written satisfaction of the planning authority, prior to occupation of the dwelling.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Prior to commencement of development, the developer shall enter into a water connection agreement with Irish Water.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Finished floor levels to be as submitted.</p> <p>Reason: In the interest of orderly development.</p>
7.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>All development works shall be carried out in accordance with the Recommendations for Site Development Works in Housing Areas, DECLG, 1998.</p> <p>Reason: In the interest of orderly development.</p>
9.	<p>Existing mature trees on the site shall be protected during construction. The site shall be landscaped as indicated on Drawing No DGW/FI/02 (Landscape Detail Map) received by the Planning Authority on the 2nd February 2022.</p> <p>All hedge planting shall be of native Irish species, occurring in the area.</p> <p>Reason: In the interests of visual amenity and to encourage biodiversity.</p>

10.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.</p>
11.	<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</p>

matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.
--

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.
--

Planning Inspector

29 June 2022

Appendices

Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027 extracts