



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313672-22

<b>Development</b>	Construction of house and garage, with access onto the public road, proprietary waste water treatment system and associated ancillary site works. Significant further information relates to revised development description with reference to access onto private laneway.
<b>Location</b>	Edenaneane, Ballybay, Co Monaghan
<b>Planning Authority</b>	Monaghan County Council
<b>Planning Authority Reg. Ref.</b>	21527
<b>Applicant(s)</b>	Bernd and Joy Borchert.
<b>Type of Application</b>	Outline.
<b>Planning Authority Decision</b>	To refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Bernd and Joy Borchert.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	5 <sup>th</sup> October 2022
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

1.1. The 0.37ha appeal site lies c.2km to the west of Ballybay, in the townland of Edenaneane, County Monaghan. It lies in a rural area that is characterised by its drumlin landscape and scattered rural development. The site is situated to the east of a minor county road and comprises an agricultural field (pasture) that is bound by hedgerows. To the north east of the site, separated from it by a mature Leylandii hedge, is the appellant's residential dwelling. To the north and south of the appeal site are two further residential dwellings and there is a farmyard to the north of the appellant's property. Access to the appeal site is from a private lane off the county road that serves the appellant's dwelling, the dwelling opposite the appeal site and the farmyard to the north of it. Two further residential dwellings lie c.105m south east of the appeal site.

## 1.2. Proposed Development

- 1.3. The proposed development, as revised by way of significant further information (submitted on the 28<sup>th</sup> April 2022) comprises the construction of a residential dwelling (c.160sqm) and garage on the subject site. Access will be by construction of a new access onto the private laneway that serves the applicant's dwelling to the north of the site. Water supply will be from a Group Water Scheme, Rockcorry GWS, surface water will be directed to a soak pit and wastewater will be directed to a new waste management treatment system.
- 1.4. Plans for the development indicate that a dwelling and garage will be situated to the east of the site, with the waste water treatment system between it and the public road. The Site Layout Plan (drawing no. 200, rev A) indicates 2.4m x 90m sightlines at the junction of the private lane and public road, achieved by cutting back the existing roadside hedge alongside the appeal site. Native hedging will be planted along the western boundary of the site, alongside the private laneway.

## 2.0 Planning Authority Decision

### 2.1. Decision

2.1.1. On the 18<sup>th</sup> May 2022, the PA decided to refuse permission for the development. In summary reasons are:

- No. 1 – Development would extend ribbon development along the public road, where the proposed house would result in 6 no. houses on 250m on one side of the public road and would be contrary to DEHLG ‘Sustainable Rural Housing – Guidelines for Planning Authorities’ and Section 15.17.3 of MCDP.
- No. 2 - No written consent from owner/occupier of agricultural unit within 100m of development, therefore contrary to Policy RHP 4 of MCDP.
- No. 3 – No details of effluent treatment system, therefore contrary to section 15.18 of MCDP.
- No. 4 – No documentary evidence submitted of Right of Way over private laneway to be used to access the site and the therefore contrary to section 15.27 of MCDP.

### 2.2. Planning Authority Reports

2.2.1. Planning Reports

- 4<sup>th</sup> November 2021 – Refers to the zoning of the site, (Category 2 – Remaining Rural Area), observations and technical reports made and relevant development plan policies. It assesses the merits of the development under a number of headings including principle, compliance with design guidelines for rural housing, garage, access, EHO report, development contribution and appropriate assessment. In recommends FI in respect of compliance with policies RHP 4 (dwellings within 100m of agricultural building), RHP 5 (ribbon development), WWTP 1 (wastewater treatment) and Table 15.5 (90m sightlines provided at junction of lane and public road) and the matters raised by third parties.

- 12<sup>th</sup> May 2022 – Refers to the FI submitted and recommends refusing permission on the grounds of ribbon development, no consent from owner of agricultural building, no details on proposed WWTS and documentary evidence of Right of Way over private laneway.

#### 2.2.2. Other Technical Reports

- EHO (19<sup>th</sup> October 2021) – Recommends that applicant submit site layout map showing location of dwelling and WWTS to comply with EPA Code of Practice for Domestic Waste Water Treatment Systems 2021, submit site characterisation form and levels of dwelling and WWTS in relation to existing ground levels and requirements of Code of Practice. Subsequent report (5<sup>th</sup> May 2022) – Applicant has failed to submit FI.
- Road Condition (21<sup>st</sup> October 2021 and 1<sup>st</sup> November 2021) – Two reports recommending FI. One recommends relocation of access to south east of existing lane and the other to recommends that the applicant demonstrate 90m sightlines in each direction at junction of lane and public road. Subsequent report (12<sup>th</sup> May 2022) – Applicant has failed to provide sufficient information on ownership of laneway to be used as access to residential development and should be refused until such agreement is in place.

#### 2.3. Prescribed Bodies

- None.

#### 2.4. Third Party Observations

2.4.1. There is one third party observation on file (in response to the planning application and FI submitted). The following observations are made:

- Need. Need for dwelling as applicants are already resident on the site.
- Public health. Odour from south east corner of the site, ground is constantly wet and need for investigation in advance of another percolation system.
- Traffic hazard. Arising from location of access alongside existing entrances, poor roadside drainage and risk of water on public road freezing. Alternative

entry/access points to field. Busy road, used to bypass Ballybay and by school bus.

- Ribbon development. Six dwellings along 300m of public road, another may tip the countryside balance.
- Impact on residential amenity. Lights from cars on driveway exiting proposed development. Impact on privacy. Impact of landscaping on amenity of dwelling (e.g. if Leylandii hedge planted). Eyesore (existing field) but balances residential development.
- Water supply. Inadequate water supply (low pressure in summer months with tanks refilled at night).

### 3.0 Planning History

- None.

### 4.0 Policy Context

#### 4.1. DEHLG Sustainable Rural Housing Development Guidelines 2005

- 4.1.1. Appendix 4 of the government's guidelines on sustainable rural housing deals with Ribbon Development. The guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts. They state:

*'Other forms of development, such as clustered development, well set back from the public road and served by an individual entrance can be used to overcome these problems in facilitating necessary development in rural areas.*

*In assessing individual housing proposals in rural areas planning authorities will therefore in some circumstances need to form a view as to whether that proposal would contribute to or exacerbate ribbon development. Taking account of the above and the dispersed nature of existing housing in many rural areas, areas characterised by ribbon development will in most cases be located on the edges of cities and towns and will exhibit characteristics such as a high density of almost continuous road frontage type development, for*

*example where 5 or more houses exist on any one side of a given 250 metres of road frontage. Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:*

- *The type of rural area and circumstances of the applicant,*
- *The degree to which the proposal might be considered infill development, and*
- *The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.*

*Planning authorities will need to arrive at a balanced and reasonable view in the interpretation of the above criteria taking account of local circumstances, including the planning history of the area and development pressures.'*

## **4.2. Monaghan County Development Plan 2019-2025**

- 4.2.1. In the MCDP the appeal site lies in a rural area that identified as 'Category 2 – Remaining Rural Area'. In section 2.8.2 the Plan describes these areas as all other rural areas outside of the settlements and rural areas under strong urban influence. Policies of the Plan aim to maintain population levels in these areas by accommodating appropriate rural development and rural housing subject to relevant development management policies (RSO 4, RSP 3).
- 4.2.2. Chapter 15 sets out policies in respect of Development Management. These include:
- Section 15.17.2, Residential Dwellings and Agricultural Buildings. In order to protect the significant agricultural base of the County, where it is proposed to site a dwelling within 100 metres of an existing farm building, the applicant shall be required to submit a written agreement from the owner of the farm building, consenting to the construction of the dwelling. The policy shall not apply in a number of circumstance including where an agricultural use has clearly been abandoned and is proven as such. In this instance, the onus of proof shall rest with the applicant (RHP 4).



- Section 15.17.3, Ribbon Development. The PA will resist development that would create or extend ribbon development. The PA refers to the government's definition of ribbon development (DEHLG Sustainable Rural Housing Guidelines) and states that *'The ribbon may not have a uniform building line, and buildings set back from the road, staggered or an angle to the road will also be considered as ribbon development, where they are visually linked...The infilling of gaps between houses will not normally be permitted'* (RHP 5).
- Section 15.18, Effluent Treatment. PA require WWTS to be fully in compliance with Environmental Protection Agency 'Code of Practice; Wastewater Treatment Systems for Single Houses, 2009' as well as the policies and criteria set out in Chapter 8 (Environment, Energy and Climate Change) of this Plan in order to protect groundwater and surface water (WWTP 1).
- Section 15.27.8, Access Details. Require that accesses be constructed in accordance with the standards set out in Section 15.27 (including sightlines) (RAS 1).

#### 4.3. **Natural Heritage Designations**

- 4.3.1. The appeal site is substantially removed from sites of natural heritage interest. European sites are >10km and the nearest national site is c.1km to the south west, Dromore Lakes proposed Natural Heritage Area (site code 00001).

#### 4.4. **EIA Screening**

- 4.4.1. Having regard to the nature and modest scale of the proposed development, it would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 5.0 The Appeal

### 5.1. Grounds of Appeal

5.1.1. The appeal is made by the owner of the property to the immediate east of the appeal site. Grounds of appeal are:

- Ribbon development. The DEHLG guidance on ribbon development encourages PAs to take a balanced view in particular in areas well outside cities and towns, which is where the example of 5 no. dwellings in a 250m road frontage is described. Mitigating circumstances include personal circumstances of applicant, whether the development could be viewed as infill and if ribbon development is visually linked. The existing 5 no. dwellings are not visually linked to form ribbon development (if they are visually linked they are already in ribbon development). The proposal to add a 6<sup>th</sup> dwelling would not extend ribbon development. Development is clearly infill between buildings 1, 2 and 3 (see attached Site Layout Plan). Access to the development (and property no. 2) is off a private laneway and not the public road and constraints regarding ribbon development off a public road do not apply.
- Agricultural buildings. Owner of agricultural building within 100m of the development is an absentee landlord who lives in Galway. No impact on agricultural structure or agricultural tenant (proposed site enclosed on four sides, no shared boundary with farm). Building owner has no objection to development but will not sign the proposed concession document. Implies financial inducement which applicant is not prepared to be involved in.
- Effluent treatment system. Absence of details on effluent treatment system is not a reason for refusal but a matter to be addressed in an application for full permission. Reason for outline application is to establish viability of the project. General location of system shown in layout plan. The three adjacent houses all have independent functioning wastewater treatment plans and show that an appropriate wastewater treatment system would be possible.
- Right of way. Proposal complies with section 15.27 of the MCDP (Road Access Standards). Appellant has owned property no. 2 and the subject site

for many years before properties nos. 1 and 3 were built and has full rights to the laneway (part of purchase agreement and written into the deeds).

## 5.2. **Planning Authority Response**

5.2.1. The PA respond to the appeal (1<sup>st</sup> June 2022) but make no new comments.

## 5.3. **Observations/Further Responses**

- None.

## 6.0 **Assessment**

6.1. Having examined the policy context of the development, application details and all other documentation on file, and inspected the site, I consider that the main issues in this appeal relate to the reasons for refusing permission:

- Ribbon development.
- Impact on agricultural unit.
- Public health.
- Right of way.

## 6.2. **Ribbon Development**

6.2.1. Government guidelines on Sustainable Rural Housing recommend against the creation of ribbon development of a number of reasons including road safety, future demands for the provision of public infrastructure and visual impact. The guidelines state that in most cases ribbon development will be located on the edges of cities and towns and they cite the example of where 5 or more houses exist on any one side of a give 250m of road frontage. However, the guidelines do not confine ribbon development to this scenario and they go on to state that whether a proposal could be considered ribbon development would depend on the type of rural area and circumstances of the applicant, the degree to which the development may be considered infill and the degree to which existing ribbon development would be

extended or whether distinct areas of ribbon development would coalesce as a result of the development.

- 6.2.2. The MCDP resists ribbon development primarily on the grounds of visual amenity, reinforced on occasions by road safety reasons. Section 15.17.3 states that where a development would create or extend ribbon development, planning permission will be refused. The Plan refers to the government's definition of ribbon development and goes on to state that '*ribbon may not have a uniform building line, and buildings set back from the road, staggered or an angle to the road will also be considered as ribbon development, where they are visually linked*'. Policy RHP 5 resists development that would create or extend ribbon development and sets out circumstances on regional and local roads in which the policy would be relaxed. These include where planning permission is sought on the grounds of meeting the housing needs of a landowner or a member of his/her immediate family where no other suitable site is available on the entire landholding. Policy RHP 5 also states that the infilling of gaps between houses will not normally be permitted. Exceptionally however where there is a small gap, enough to accommodate a single dwelling only, in an otherwise substantially and continuously built up frontage, planning permission may be granted.
- 6.2.3. In this instance the appeal site lies in a rural area that is not identified as under strong urban influence and is one in which policies of the MCDP aims to maintain population levels by accommodating appropriate rural housing subject to relevant development management policies. The applicants are resident in the adjoining dwelling and there is no information on file regarding their circumstances that may impact on consideration of the application.
- 6.2.4. The appeal site is situated alongside an existing cluster of buildings on the eastern side of the public road comprising three residential dwellings and a farm yard. In plan the proposed dwelling appears to form an infill site between the existing structures.
- 6.2.5. From the public road dwelling no. 1 and no. 3 are visible (see appeal drawings, no. 1 = house to north of appeal site, no. 2 = appellants dwelling, no. 3 = sit to south of appeal site). The appellant's dwelling is situated to the rear of a mature *Leylandii* hedge and is therefore screened in views from the road. Currently, when

approaching the appeal site from the north or the south properties no. 1 and 3 are not seen together by virtue of topography, alignment of the road and mature vegetation. The effect of the proposed development, situated on a prominent roadside site between the two existing buildings, will be to extend the visual envelope of development and coalesce the existing properties to north and south.

- 6.2.6. To the south of the appeal site a further two dwellings also lie on the eastern side of the public road. Currently, these two dwellings are visually removed from the appeal site. However, the development of the appeal site and its coalescence with adjoining residential development, would result in 5 houses (i.e. excluding the appellants property which is largely screened from the public road) along 250m of public road frontage and give rise to a significant increase in the visual impact of dwellings and the perceived continuity of dwellings along this short stretch. I consider that this would amount to ribbon development and that the proposed development would therefore conflict with national planning guidelines and Policy RHP 5 of the CDP.

### **6.3. Impact on Agricultural Unit**

- 6.3.1. Policy RHP 4 of the MCDP states that permission for a dwelling within 100m of an agricultural building will only be granted where written consent has been provided by the owner/occupier of the agricultural unit. The purpose of the policy is to protect the operations of a working farm from development that could prejudice its expansion, in order to support the agricultural base of the County.
- 6.3.2. In this instance, the appeal site adjoins the public road, is surrounded on three sides by residential development and is separated from the farm to the north by these buildings. Further, there is no objection to the proposed development from either the owner or occupier of the farm to the north of the appeal site. Having regard to the forgoing, I do not consider in this instance, that the proposed development is likely to prejudice the expansion of the working farm and I consider it unreasonable to refuse permission on this basis.

### **6.4. Public health**

- 6.4.1. The applicant proposes treating effluent arising from the appeal site by way of a waste water treatment plant. There are no details on file regarding the

characteristics of the site, proximity of existing treatment systems or the capacity of the soils on site to accommodate a wastewater treatment system and to adequately treat waste water.

6.4.2. The appellant argues that the purpose of the application for outline planning permission is to assess the viability of the development, without spending significant sums on a site characterisation report etc. However, I would argue that the purpose of the outline planning application is to establish the principle of development, including the principle of whether or not the site can be drained. In coming to this view I am mindful of the following:

- Article 24 of the Planning and Development Regulations, 2001, as amended, requires that plans and particulars shall accompany an application for outline permission to enable the PA to make a decision in relation to the siting, layout or other proposals for the development in respect of which a decision is sought.
- Further, under section 36(4) of the Planning and Development Act 2000 (as amended), where an application for permission is made to a PA consequent on the grant of outline permission, the PA cannot refuse permission on any matter which has been decided in the outline grant of permission.

6.4.3. In the absence of a site characterisation report etc. it is not possible to definitively determine if the site can be drained or the form of the WWTS, with potential for effects on the suitability of the site for a residential dwelling and/or the siting and layout of the development. Any grant of outline permission in the absence of site assessment has potential therefore to result in difficulties at the permission stage and is not appropriate.

## 6.5. **Right of way.**

6.5.1. The PAs fourth reason for refusal is based on the absence of documentary evidence of a ROW over the private laneway to be used as access to the proposed house.

6.5.2. The appellant asserts that a legal right of way exists of the private laneway. No information is provided to support this assertion or by others to contradict it. Further, I note that appellant's dwelling lies to the north of the appeal site and the private lane

is used by the appellant to access this property. Having regard to the foregoing, and section 34(4) of the Act which states that a person is not entitled solely by reason of a permission to carry out development, I do not consider that permission for the development be refused on this ground.

## **7.0 Recommendation**

7.1. I recommend that permission be refused for the proposed development on the grounds of ribbon development and public health.

## **8.0 Reasons and Considerations**

1. It is the policy of the planning authority as set out in the current development Plan to resist ribbon development. This policy is considered to be reasonable. The proposed development would be in conflict with this policy because, when taken in conjunction with existing development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in the rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the absence of a comprehensive site assessment, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

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Deirdre MacGabhann  
Planning Inspector

18<sup>th</sup> October 2022