



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315244-22

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<b>Development</b>	Construction of a new dwelling house.
<b>Location</b>	Clonoghill Upper, Birr, Co. Offaly.
<b>Planning Authority</b>	Offaly County Council.
<b>Planning Authority Reg. Ref.</b>	22/135.
<b>Applicant(s)</b>	Jane Ryan and Cian Lyons.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Offaly County Council.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	John Plunkett.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	17 <sup>th</sup> November 2023.
<b>Inspector</b>	Clare Clancy.

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in the rural area in the townland of Clonoghill Upper, approximately 1.19 km to the east of the settlement boundary of Birr town. The site is located in a low-lying area and the immediate area is characterised by piecemeal one-off housing and linear-type developments along the local roadways as well as in the wider area, which is likely attributed to the development pressures arising from Birr town. It was observed that the prevailing building type in the immediate area consists of single storey and low profile dormer style dwellings.
- 1.2. The subject site is 0.36 ha (0.889 acres) in area and occupies an area of road frontage which extends to approx. 53.3 m. The ground levels within the site rise from the adjoining public road to the rear (south west) i.e. from 65.56 OD to 67.14m OD, and within the centre of the site there are shallow dips and rises.

There are medium / low voltage overhead wires that traverse the site and there is 38kv overhead power line abutting the rear of the site. The site is bounded to the north west by an existing farm yard, agriculture buildings and a small single storey dwelling and adjoining out building associated with the farmyard complex. There is an existing agriculture access in the north western corner of the site associated with the adjoining farm yard. The site is grassland and was noted to be in use on the day of my site inspection. The roadside boundary is defined by mature hedgerow while the south western boundary or rear boundary of the site is partially defined by mature trees that run along the boundary of the existing dwelling adjoining the appeal site to the south east, and a low post and wire fence at the rear. The south eastern boundary of the site is undefined.

## 2.0 Proposed Development

- 2.1. Permission was sought to construct a new dwelling house to provide a detached domestic garage, installation of wastewater treatment system and percolation area, connect to the public mains, a new site entrance and all associated site works.
  - The proposed dwelling was for a dormer style dwelling with a floor area of 258 m<sup>2</sup> and a maximum height of 6.35 metres. The proposed design is traditional in style with a pitched roof, punctuated with velux type roof light windows on the

north and south elevations, and with double gable at the east and west elevations.

- The proposed garage including fuel store has a floor area of 46.5 m<sup>2</sup> and a max ridge height of 3.9 m.
- The proposed external finishes for both structures included for plaster finish and natural stone finish on the western elevation of the proposed dwelling.
- Landscaping proposals are proposed on the lateral and rear boundaries of the site.

### **3.0 Planning Authority Decision**

#### **3.1. Request for Further Information**

3.2. Prior to notification of decision to grant, the planning authority sought further information in regard to compliance with local rural housing need policy, revisions to the siting and orientation of the proposed dwelling including the proposed siting of the garage, reduction to the overall ridge height of the dwelling, and confirmation from the ESB that there is no objection to the location of the proposed dwelling to be located below overhead power lines that traverse the site. The applicant was also invited to address issues raised in a third-party submission in objection to the proposed development.

- The applicants responded by providing supporting documentation to demonstrate compliance with local housing need policy.
- A revised site layout plan was submitted amending the siting of both the proposed dwelling and the garage within the site to a location with more favourable contours, and revised plans and elevations provided to reduce the height of the dwelling and its orientation.
- A letter from ESB Networks was provided, giving an undertaking that the medium / low overhead wires will be managed, subject to proof of planning permission and proof that building works have commenced on the site.

### **3.3. Decision**

On the 8<sup>th</sup> November 2022, Offaly County Council issued notification of decision to grant permission subject to 16 conditions. The conditions included a seven year occupancy condition, external finishes, details of the vehicular entrance and roadside boundary as per a revised site layout plan, the wastewater treatment system, surface water disposal, management of construction phase, landscaping, and pre-development conditions pertaining to development contributions and connection agreement with Irish Water. A condition was also included with respect to building works being carried out in proximity of overhead powerlines.

### **3.4. Planning Authority Reports**

#### **3.4.1. Planning Reports**

Two planning reports form the basis of the planning authority's assessment and decision. Following on from the response submitted to the further information request, the planning authority considered that the applicant demonstrated compliance with policy SSP-27 relating to local housing need, the issue raised in regard to site layout, design and siting of the proposed dwelling and garage were satisfactory, and confirmation from ESB networks that there was no objection to the proposed development, as per plans received by the planning authority on the 24<sup>th</sup> March 2022. The planner recommended permission be granted.

#### **3.4.2. Other Technical Reports**

Environment Water Services – No objection subject to conditions.

Area Engineer – No objection subject to conditions.

### **3.5. Prescribed Bodies**

None.

### **3.6. Third Party Observations**

One observation was received from the same appellant in relation to the grounds of this appeal. The issues raised are largely covered by the grounds of appeal.

## 4.0 Planning History

None associated with the appeal site.

Adjoining the site to the south west:

**P.A Ref. 01/889** Outline permission refused for a dwelling house and septic tank. Reason for refusal noted that the proposed development would constitute urban type low density sprawl in a rural area and would prejudice the future consolidation of the existing town.

## 5.0 Policy Context

### 5.1. Project Ireland 2040 National Planning Framework

- 5.1.1. National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### 5.2. East Midlands Regional Spatial and Economic Strategy 2019-2031 (RSES)

- 5.2.1. Section 4.2 (Settlement Strategy) – Support the sustainable growth of rural areas by promoting the revitalisation of rural towns and villages, including ready to go regeneration projects coupled with investment where required in local employment and services and targeted rural housing policies, to be determined by local authorities.
- 5.2.2. Section 4.8 (Rural Places: Towns, Villages and the Countryside) states, inter alia in relation to housing, that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth.

5.2.3. Regional Policy Objectives (RPOs) for Rural Areas include RPO 4.77 and RPO 4.78 which generally, support local authority development plans prioritising the regeneration of rural towns, villages and rural settlements. Policy RPO 4.80 reiterates NPO 19 where it states that, in Rural Areas Under Strong Urban Influence and Stronger Rural Areas, local authorities shall manage urban generated growth by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements.

### 5.3. Sustainable Rural Housing Guidelines for Planning Authorities (2005)<sup>1</sup>

5.3.1. The ‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’ promote the development of appropriate rural housing for various categories of individuals as a means of ensuring the sustainable development of rural areas and communities.

5.3.2. Housing policy in the ‘open countryside’ is informed by the Sustainable Rural Housing Guidelines for Planning Authorities (2005) which provides that planning authorities distinguish between areas under strong urban influence, stronger rural areas and structurally weaker areas. The rural housing policy is specifically aimed at restricting what the guidelines refer to as ‘urban generated housing’ whilst prescribing that ‘rural generated housing’ which will be facilitated by way of policy.

5.3.3. The *Sustainable Rural Housing Guidelines* note also that in facilitating housing intended to meet rural-generated needs, eligible persons can include those working full-time or part-time in rural areas or persons who are an ‘intrinsic part of the rural community’ which are defined as follows:

‘Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have

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<sup>1</sup> Circular letter PL 2/2017: ‘Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans’ states that the ‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’ remain in place and thus form the current ‘default’ position (as supported by the National Planning Framework) pending the publication of revised guidance by the Department).

grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence’.

#### 5.4. Offaly County Development Plan 2021-2027

- 5.4.1. The Offaly County Development Plan 2021- 2027 provides for the identification of the various rural area types specific to the county at a local scale. Figure 2.1: Rural Area Types map demonstrates that the site is located in an area classified as ‘Stronger Rural Areas’.

Figure 2.2 Core Strategy Map further identifies the area as ‘Rural Areas Under Strong Urban Influence & Stronger Rural Areas’. The Settlement Hierarchy in Table 2.5 designates Birr including Crinkle as a ‘Self-Sustaining Growth Town’.

The appeal site is located in the ‘Open Countryside’ and the definition of the ‘Open Countryside’ is defined in Table 2.2 as the land outside of the boundaries of the settlements, listed in Table 2.5 of the Settlement Hierarchy.

Section 2.4.7 sets out the approach for housing in rural areas and states that the open countryside is and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities.

It is also stated that in accordance with the RSES, it will be necessary to demonstrate a ‘functional economic or social requirement’ for housing need in Rural Areas under Strong Urban Influence and Stronger Rural Areas, which are identified in the Core Strategy Map.

- 5.4.2. The settlement strategy policy for sites located within the “open countryside” is set out under policy SSP-27 of Section 2.5 (d) Housing in Rural Areas Strong Urban Influence and Stronger Rural areas and Areas of Special Control.

It seeks to accommodate individuals for permanent residential development in ‘Rural Areas Under Strong Urban Influence’ who have ‘*a functional economic or social requirement*’ to reside in a particular rural area in accordance with (i) economic requirements or (ii) social requirements.

1. The following sets out the criteria for persons who have a '**Functional Economic Requirement**':

(i) Economic requirements will encompass persons who by the nature of their work have a '**Functional Economic Requirement**' need to reside in the local rural area close to their place of work. This criteria states that this includes for 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 qualifying criteria in establishing a '**Functional Social Requirement**' are more wide ranging and include persons who were:

(ii)(a) born in the local rural area, those who are living or have lived in the local rural area for a minimum of 5 years at any stage prior to the making of the application, 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).

The remainder of the qualifying criteria is as follows:

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.

5.4.3. Chapter 13 Development Management Standards is also relevant and in particular Section 13.9.3 which refers to residential development in the open countryside.

5.4.4. Chapter 14 Biodiversity and Landscape, Section 4.14 is relevant. The site is located in an area classified as “low landscape sensitivity”, as per Figure 4.22, and the plan states that all developments should be assessed on a site by site basis to avoid, minimise or mitigate any potential environmental or visual impact.

## 5.5. Natural Heritage Designations

The following natural heritage designations are located in the general vicinity of the proposed development site:

- Lisduff Fen SAC (Site Code 002147) located approx. 2.9 km to the south.
- Island Fen SAC (Site Code 002236) located approx. 4.3 km to the south east.
- Sharavoguen Bog SAC (Site Code 000585) located approx. 5.2 km to the south west.
- Sharavogue Bog pNHA (Site Code 000585) located approx. 5.2 km to the south west.
- Killeen Bog NHA (Site Code 000648) located approx. 5.31 km to the west.
- Ballyduff Clonfinane Bog SAC (Site Code 000641) located approx. 7.01 km to the west.
- Ballyduff Clonfinane Bog pNHA (Site Code 000641) located approx. to the west.
- Woodville Woods pNHA (Site Code 000929) located approx. 3.6 Km to the north west.
- Dovesgrove Callows SPA (Site Code 004137) located approx. 4.82 Km to the north west.
- Dovesgrove Callows pNHA (Site Code 000010) located approx. 4.78 Km to the north west.
- Rose & Glen pNHA (Site Code 000920) located approx. 5.77 km to the north west.
- Ridge Road, SW of Rapemills SAC (Site Code 000919) located approx. 7.3 km to the north west.
- Ridge Road, SW of Rapemills pNHA (Site Code 000919) located approx. 7.2 km to the north west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

One third party appeal was received by John Plunkett whose property immediately adjoins the appeal site to the rear (south east). Photos are included in support of the appeal.

The following is a summary of the issues raised in the grounds of the appeal:

#### Settlement Strategy Policy

- Offaly County Council have not demonstrated that they have fulfilled SSP-01 and SSP-02 by allowing this application.
- The purpose of the Offaly County Development Plan 2021-2027 (CDP) and the Draft Birr LAP<sup>2</sup>, is to try to get as much development as possible to locate in the Self-Sustaining Growth Town of Birr (SSGTB) which includes Crinkle.
- In accordance with policy SSP-27 which relates to local housing need policy, the applicants have not made a case to comply with the qualifying criteria, in particular 1(ii)(a). It is also submitted that 1(ii)(a) cannot be used as Birr (and Crinkle) have to be excluded from the area as they are designated as a Self-Sustaining Growth Town.
- In regard to the location of the family home of the first applicant, the appellant submits that it is on the edge of Birr town, and not in the 'open countryside' as indicated by the planning officer, and that the council made a procedural error in requesting a map that did not show the location / distance of the family home in the context of Birr town settlement boundary.
- The appellant indicates that he is aware that the applicants have been living abroad for the past 8 years approx. and that this does not show a social need to live in the location of the application site.

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<sup>2</sup> The Birr Local Area Plan 2023-2029 came into effect on the 26<sup>th</sup> June 2023.

### Location, Design, Siting

- The siting is contrary to SSP-02 policy. This policy seeks to reduce urban sprawl.
- The proposed development is inappropriate. Reference is made to precedent already set whereby outline planning permission was refused on a site to the rear of the appeal site on the basis that the proposed development would constitute urban type low density sprawl in a rural area and would prejudice the future consolidation of the existing town.
- The proposed design of the house in terms of form and scale is inappropriate and not in-keeping with the existing building type in the area, standard bungalow / dormer dwellings in the area. The appellant has included photos to show the building type in the immediate area.
- Concern is raised that the proposed design of the dwelling in particular the eastern elevation would prohibit future development in the field south of the development. The proposed development creates a land locked piece of land without an access and would impact any new development negatively due to lack of privacy.
- Concern raised in regard to impact on privacy and residential amenity.

### Overhead Power Lines

- Medium / low voltage overhead power lines traverse the site, and high voltage overhead power lines adjoin the site to the rear. Offaly County Council failed to consider separation distances from overhead power line and health and safety in respect of the location of the proposed dwelling. Correspondence received from the ESB did not refer to the high voltage overhead line and an error was made in relation to the correct folio number pertaining to the site.

Condition no. 10 of the grant is unsuitable to deal with the existing low level power lines that have to be moved, or the high voltage line.

### Site Notice

- The site notice was erected late.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

Response received on the 06<sup>th</sup> January 2023 indicating no comments in relation to the appeal.

## 6.4. Observations

None.

## 6.5. Further Responses

None.

## 7.0 Assessment

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

- The principle of development and compliance with rural housing policy.
- Site Layout and design.
- Other matters.
- Appropriate Assessment.

## 7.2. Principle of Development and Compliance with Rural Housing Policy

7.2.1. Compliance with rural housing policy is a core consideration for applications for one off dwellings in the rural countryside. The appellant has raised the issue in regard to Offaly County Council's application of housing policy, and the applicants' compliance with the rural housing policy as set out in the Offaly County Development Plan 2021-2027 (CDP). Therefore, the key issue to be addressed within the appeal relates to

whether the applicants have an economic or social need to build a house in this rural area that meets the requirements of the development plan's rural housing policy. Offaly County Council's settlement strategy and rural housing policy is set out in Chapter 2 of the CDP. In assessing the principle of development, it is of relevance to note that the plan and in particular Chapter 2, has been prepared in accordance with the *Project Ireland 2040 National Planning Framework, the Sustainable Rural Housing Guidelines for Planning Authorities 2005, and the East Midlands Regional Spatial and Economic Strategy 2019-2031 (RSES)*.

7.2.2. Policy SSP-27 of the CDP sets out 4 specific criteria which are required to be complied with in order for an applicant to comply with local rural housing policy (see Section 5.4.3 above). I note that the appeal site is located in the 'Open Countryside' and is designated as a 'Rural Area Under Strong Urban Influence' and a 'Strong Rural Area' as identified in Figure 2.2 and Figure 2.6 of the County Development Plan (CPD).

7.2.3. In order to demonstrate compliance with SSP-27, I note that neither applicant put forward a case with regard to having a functional economic requirement to reside in this area, in accordance with 1(i) of SSP-27, therefore the local housing need assessment was based by the planning authority on SSP-27 1(ii)(a), that the applicant has a social functional requirement to reside in this rural area.

In assessing this and in order to demonstrate compliance with policy SSP-27 1(ii)(a), I note that the applicant Jane Ryan indicated that she lives at Whiteford and has done so all her life, 29 years, and works at Happy Days Creche, Crinkle. A birth certificate and a letter is provided by the school principal indicating that she attended Crinkill National School from 1998-2006.

It is submitted by the second applicant Cian Lyons that he has resided at Woodfield all of his life and that he works locally as an electrician. A birth certificate is provided and a letter from the principal of St Brendan's Boys Birr confirms that he attended school in the area from 1997-2004.

The applicants indicated that they do not already own a dwelling or previously owned a dwelling in the open countryside and I note that this was confirmed by the planning authority. I note also that the applicants do not own the site.

Site location maps and aerial photos are provided for both applicants showing the locations of their respective family homes in the 'open countryside' and in the context

of the appeal site, demonstrating that they both live within 8 km (or approx. 3.68 km from the respective family homes) of the appeal site.

It is indicated on the Supplementary Application Form no. 1 received by the planning authority on the 24<sup>th</sup> March 2022 that the expressed need for a dwelling was indicated as a requirement to live close to their families. In the response to the further information request received on the 12<sup>th</sup> October 2022, the applicants indicated in response to question 3(d) that they are engaged in the rural economy, working locally as an electrician, and working in childcare and therefore have a demonstrable need to live in the rural area.

7.2.4. It is raised in the appeal that the location of the family home of the first applicant (Jane Ryan) is not in the 'open countryside'. The map provided in response to the further information request indicates the location of her family home which is located on School Street on the edge of Birr town boundary. Table 2.5 of the CDP provides for the Settlement Hierarchy for the county. Birr town is identified as a 'Self-Sustaining Growth Town' and this also includes for Crinkill village. I note that the town / settlement boundary for the Birr Local Area Plan 2023-2029 encompasses Crinkill village. I have reviewed the settlement boundary as depicted on the land use zoning map for Birr town and I am satisfied that the applicant's family home is located in the 'open countryside'.

7.2.5. Based on the information as presented in the file and having regard to the provisions of policy SSP-27 of the Offaly County Development Plan and specifically 1(ii)(a), I conclude that the applicants meet the qualifying criteria in order to demonstrate that they have a 'functional social requirement' to live in this rural area.

In terms of assessing SSP-27 criteria 4, I will address this in the next section on Siting and Design.

### 7.3. Site Layout and Design

7.3.1. The subject site is located in an area with the landscape designation '*Low Landscape Sensitivity*', as per Figure 4.22 Landscape Classification Areas in County Offaly. This landscape classification is described as comprising more robust landscapes that are

tolerant to changes, such as the county's main urban and farming areas, which have the ability to accommodate development.

- 7.3.2. In the local context, I observed on the day of my site inspection that the site rises gradually from the road to the rear, medium / low voltage overhead power lines traverse the site, and high voltage overhead wires are located to the rear of the south western boundary of the site, the surrounding area is low-lying and is characterised by a predominantly flat rural landscape interspersed with piecemeal housing, farm buildings and liner-type development on the opposite side of the road to the appeal site. The building type in the area is characterised by bungalows / single storey dwellings in the form of one-off housing which is evident along the roadway serving the appeal site.
- 7.3.3. The permitted development comprises the construction of a dormer style dwelling with a stated area of 250 m<sup>2</sup> / 2,760 sq. ft. and a max roof ridge height of 6.26 m. It is proposed to provide a garage along the north western boundary of the site. The proposed dwelling will be set back 28.10 m from the roadside boundary and in alignment with the existing agricultural sheds to the north west. It is proposed to set back the existing roadside boundary to provide for the access to serve the site, and to provide screening at the rear of the site which adjoins neighbouring dwellings located to the south east.
- 7.3.4. In relation to the siting and design of the proposed dwelling, the applicant was requested by the planning authority to address a number of issues at further information stage which included for addressing the location of the proposed dwelling given its siting at the highest point within the site, and to reduce the overall height of the dwelling. As a result the revised location of the dwelling was moved forward on the site by approx. 5 m resulting in the dwelling being set back from the public road by 28.10m as opposed to 34.00 m initially. The overall height of the dwelling was reduced from 6.35 m to 6.25 m as a result of reducing the floor to ceiling height internally.
- 7.3.5. Having regard to my site inspection, the details as contained on the file and having regard to Section 13.9.3 of the County Development Plan, I consider that the proposed house design, which is traditional in form and scale is generally in-keeping with the existing building type in the immediate area. I am also satisfied that the revised siting of the proposed dwelling and garage is acceptable as they will be in an area of the site

where the contours are more favourable to minimising visual impact. I am therefore satisfied that the proposed dwelling would not have any significant adverse visual impact on the receiving rural landscape. I therefore consider that the proposed development complies with criteria 4 of policy SSP-27, which is the final qualifying condition for compliance with local housing need policy.

7.3.6. In terms of any impacts arising on adjoining residential amenities and in particular the residential amenities of the appellant's house, I am satisfied that there is adequate separation distances between the proposed dwelling and that of the adjoining dwellings to the south east of the site. I note also that landscaping proposals are identified on the revised site layout plan with additional screening proposed in the south eastern corner of the site. I therefore do not consider that the proposed development will unduly impact on any adjoining residential amenities. Should the Board decide to grant permission for the proposed development, I would recommend the inclusion of condition in relation to both boundary treatment and landscaping proposals.

7.3.7. With regard to the remaining land adjoining the site to the south east, I do not consider that there is any impact on same arising from the proposed development and that any future development of it will be managed by the planning authority.

#### **7.4. Other Issues**

##### **7.4.1. Site Notice**

The appellant raised an issue in relation to the site notice and the alleged irregularities in terms of the timing of the erection of the site notice. I note that this matter was considered to be acceptable by the planning authority so I am therefore satisfied that this did not prevent the appellant from making submissions / observations in relation to this application.

##### **7.4.2. Overhead Power Lines**

Following my inspection of the site, I observed that there are 2 sets of overhead electricity power lines at the site of the appeal. Medium and/or low overhead power lines traverse the site and higher overhead power lines are located to the rear of the

site, adjacent to the application site boundary. I note from Figure 3.3 of the County Development Plan that this overhead higher voltage line is a 38 KV ESB line.

As part of the planning authority's further information request, I note that reference was only made to the proposed dwelling being sited below the existing overhead electric power lines that traverse the site. No reference was made in the planning report to the 38 KV line being located were within the appeal site.

I note that the submission received from ESB Networks refers specifically to the existing overhead lines traversing the site as 'medium and / or low voltage overhead electric lines' and providing confirmation that ESB Networks will manage this, if development proceeds or commences on the site.

In terms of condition no. 10 included in the grant of permission this condition refers to the ducting of service lines and cables underground to serve the proposed development. This is a standard condition used in general by planning authorities regarding the management of same.

I note that condition no. 16 of the grant specifically relates to any building works being carried out in proximity to overhead powerlines, requiring that the development is carried out in accordance with the relevant requirements of the ESB. I consider that this condition adequately addresses the matter of any such overhead lines, if development commences on the site. This is also a standard condition used by planning authorities once no objections have been raised by power utilities such as ESB Networks, at application stage. I wish to note for the Board that there is no specific policy set out in the County Development Plan for such scenarios regarding the management of overhead power lines, but that condition 16 should be included, should the Board decide to grant the development.

## **7.5. Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distances to the nearest European sites in particular:

- Lisduff Fen SAC (Site Code 002147) located approx. 2.9 km to the south.
- Island Fen SAC (Site Code 002236) located approx. 4.3 km to the south east.

- Sharavoguen Bog SAC (Site Code 000585) located approx. 5.2 km to the south west.

I am satisfied that no appropriate assessment issues arise, and I do not consider 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. Having regard to the foregoing, I recommend that permission is granted for the proposed development.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the to the provisions of the Offaly County Development Plan 2021-2027, the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, 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 to the planning authority 12 <sup>th</sup> October 2022, 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.
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	<b>Reason:</b> In the interest of clarity
2	<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. 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><b>Reason:</b> 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>
3	<p>The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4	<p>Prior to the commencement of development, the details of the proposed boundary treatment shall be submitted to the Planning Authority for their written agreement.</p>

	<p><b>Reason:</b> In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
5	<p>The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All existing trees and hedgerow be retained except the extent that its removal is necessary to provide for the site entrance and sightlines. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
6	<p>a) The proposed treatment plant and sand polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 24<sup>th</sup> March 2022 and as amended by the further plans and particulars submitted to the planning authority 12<sup>th</sup> October 2022, 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. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first</p>

	<p>occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>d) Surface water soakaways shall be located such that drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document</p> <p><b>Reason:</b> In the interest of public health.</p>
7	<p>All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p><b>Reason:</b> In the interest of public health.</p>
8	<p>Prior to commencement of development, the developer shall enter into a water connection agreement with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
9	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of orderly development and visual amenity.</p>

10	<p>The development shall be carried out in accordance with the relevant requirements for the ESB with regard to carrying out building works in proximity to overhead powerlines.</p> <p><b>Reason:</b> In the interest of safety and orderly development.</p>
11	<p>The proposed garage shall be used solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for any commercial purpose or for human habitation.</p> <p><b>Reason:</b> In the interest of residential amenity and clarity.</p>
12	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
13	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	<p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Clare Clancy  
Planning Inspector

05<sup>th</sup> December 2023

## Form 2 - EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	315244-22	
<b>Proposed Development Summary</b>	Construct a new dwelling, garage, waste water treatment plant and percolation area, new access and all associated site development works.	
<b>Development Address</b>	Clonoghill Upper, Birr, Co. Offaly	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
•	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<ul style="list-style-type: none"> <li>• <b>Nature of the Development</b></li> <li>• Is the nature of the proposed development exceptional in the context of the existing environment?</li> <li>• Will the development result in the production of any significant waste, emissions or pollutants?</li> </ul>	<p>The appeal site is located in a rural area. The proposed development is not exceptional in the context of the existing receiving environment.</p> <p>No. The proposed dwelling will be serviced by a wastewater treatment system, polishing filter and percolation area that is acceptable in terms of treating effluent arising from the proposed development and discharging to groundwater, via percolation area.</p>	<ul style="list-style-type: none"> <li>• No</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Size of the Development</b></li> <li>• Is the size of the proposed development exceptional in the context of the existing environment?</li> <li>• Are there significant cumulative considerations having regard to other existing</li> </ul>	<ul style="list-style-type: none"> <li>• No. The site has an area of 0.36 ha. The minimum site size requirement for sites to accommodate a single dwelling in the open country side is 0.2 ha, as per Section 13.9.3 in Chapter 13 of the Offaly County Development Plan 2021-2027.</li> <li>• There are no other developments under construction in proximity to the site. All other existing developments are established uses.</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>

<p>and/or permitted projects?</p>		
<ul style="list-style-type: none"> <li>• <b>Location of the Development</b></li> <li>• Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</li> <li>• Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</li> </ul>	<p>The nearest European Sites to the appeal site are:</p> <ul style="list-style-type: none"> <li>• Lisduff Fen SAC (Site Code 002147) located approx. 2.9 km to the south.</li> <li>• Island Fen SAC (Site Code 002236) located approx. 4.3 km to the south east.</li> <li>• Sharavoguen Bog SAC (Site Code 000585) located approx. 5.2 km to the south west.</li> </ul> <p>In the event that planning permission is upheld, surface water arising from the proposed development will be managed by condition that will include for standard best practices and methodologies for the control and management of surface water on site.</p> <p>Potential impacts that could arise from the proposed development to receiving receptors may include impacts to ground water, not managing surface water disposal on site.</p> <ul style="list-style-type: none"> <li>• Given the absence of pathways to any sensitive ecological sites / receiving environment, it is considered that no issues arise.</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Conclusion</b></li> </ul>		
<ul style="list-style-type: none"> <li>• <b>There is no real likelihood of significant effects on the environment.</b></li> </ul> <p>I conclude that EIA is not required.</p>		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_