



An
Bord
Pleanála

Inspector's Report

ABP-317583-23

Development

Retention permission for mobile home and Tigín facilities within shed (for 5 years) and permission for temporary wastewater treatment system and percolation area (for period of 5 years), new vehicular entrance and ancillary site development works.

Location

Creggan Townland, Cornafulla,
County Roscommon

Planning Authority

Roscommon County Council

Planning Authority Reg. Ref.

23154

Applicant(s)

Niall and Chantelle McGinley

Type of Application

Retention and Permission

Planning Authority Decision

Refuse Retention and Permission

Type of Appeal

First Party

Appellant

Niall and Chantelle McGinley

Observer(s)

None

Date of Site Inspection

16th January 2024

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of the R446, at Cornafulla, c. 6.5 km south-west of Athlone. The appeal site is located in a rural area outside of a settlement.
- 1.2. The appeal site has a stated area of 1.09 Ha. is broadly rectangular in shape, relatively flat and comprises a long field. A mobile home (stated floor area c. 40 sqm) and a shed structure¹ (stated floor area c. 215 sqm) occupy the site. These structures are located c. 80-90 metres from the roadside boundary with the R446. There is a steel container to the rear of the shed. Compacted hardcore forms a driveway connecting the mobile home and shed to the entrance of the site, and also an apron area around the mobile home and shed. The boundaries of the appeal site comprise trees and hedgerow.
- 1.3. The lands to the north are indicated as being within the ownership/control of the applicants as demarcated by the blue line boundary.
- 1.4. There are a number of detached dwellings in the vicinity, some of which have agricultural sheds located to the rear. A commercial garage is located opposite/south of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Retention permission for;
 - A mobile home (to be used as a residence for a further 5 no. years).
 - Tigín facilities² within an existing shed (for a duration of 5 no. years). The stated floor area of the Tigín facilities within the shed are stated as c. 51 sqm.
 - Permission for the installation of temporary wastewater treatment system and percolation area (for a period of 5 no. years). The new system is proposed to

¹ The planning report submitted with the planning applicant refers to the shed structure as having been constructed on foot of exempt development provisions relating to agricultural structures.

² Consisting of kitchenette, office, store, toilet and living area.

replace the existing septic tank on the site which serves the Tigín facilities in the shed.

- Vehicular entrance (relocated from existing position to more central location).
- Ancillary site development works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to REFUSE retention and permission on the 20th of June 2023 for 4 no. reasons, summarised as follows;

1. The Planning Authority is not satisfied, based on the information submitted, that the applicants meet the criteria for rural generated housing in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities, and Table 3.2 of the Roscommon County Development Plan 2022-2028.
2. It has not been demonstrated that the site can attenuate and dispose of wastewater safely in accordance with the EPA Code of Practice (2021): "Domestic Waste Water Treatment Systems (Population Equivalent <10)".
3. Having regard to the non-permanent nature of the mobile home and the proposed retention of additional associated accommodation within the substantial shed, the absence of adequate services and infrastructure (including a safe vehicular access and wastewater treatment system), the proposed development would represent inappropriate ad-hoc development in the rural area and would set an undesirable precedent for further sporadic development of a similar nature, would be seriously injurious to the amenity and of the area and would depreciate the value of property in the vicinity.
4. 160 metre sight lines in both directions have not been demonstrated as required by Section 12.24 of Volume I of the Roscommon County Development Plan 2022-2028. The proposed development would endanger public safety by reason of traffic hazard, particularly having regard to its location along this heavily trafficked regional road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes;

Re. Rural Housing

- The applicant's family home is located at Bogganfin, Athlone, c 6.5 km from the application site. While a precise distance has not been set out in the Roscommon County Development Plan to define a rural area, Bogganfin does not constitute part of the same rural area/community as Cornafulla. To extend rural links this far across the opposite side of Athlone would be contrary to the policies set out in Roscommon's County Development Plan 2022-2028 and contrary to the long established principles set out in the Sustainable Rural Housing Guidelines for Planning Authorities.
- The applicant has been residing in a mobile home at the application site since 2019 (documentation has been submitted to support this). The mobile home has been on site in an unauthorised capacity.
- The applicants are not engaged in activity which requires them to reside in this rural area. The applicants' business is online furniture retailing. The applicant was also involved in turf cutting and tending to cattle at locations which are a significant distance from the application site.
- In addition to the unauthorised residential occupation of the site, the period of time at the site is not considered to be substantial and does not satisfy the minimum period as set out in Table 3.2 of the Roscommon County Development Plan. The applicants cannot be considered to have significant link to the Cornafulla area and do not meet the criteria set out for social need in Table 3.2.
- Policy objective PPH3.12 supports Roscommon County Councils Traveller Accommodation Programme 2019-2024, which itself sets out a range of accommodation options for the travelling community. This programme specifically states that 'Single Instance Housing (once-off rural dwelling)' is no longer considered as a permanent housing option under the Traveller Accommodation Programme on the basis that this option was not consistent

with planning objectives. Therefore, the proposal for a one-off house or the establishment of alternative forms of residential accommodation equivalent to a proposal for a one off house that does not comply with Table 3.2 Rural Housing Need Criteria in Roscommon County Development Plan is not an acceptable option in terms of planning policy. It is not considered that the case presented demonstrates 'exceptional circumstances' in the context of the provisions of Table 3.2 of the Plan.

Re. Visual Impact:

- The Tigín facilities are concealed within the shed and have no visual implications.
- The mobile home is deemed inappropriate in a rural setting. Whilst landscaping could be used to address visual impact, noting the temporary nature of the structure this is not feasible.

Re. Access/traffic safety:

- Sightlines of 160 metres cannot be achieved at the proposed entrance, in particular to the north-east due to the alignment of the road and impediments to visibility. Sightlines to the south-west, whilst better, are also impeded by vegetation and utility poles located on lands outside the applicants' ownership.

Services:

- The site is poorly drained.
- The existing septic tank and percolation on the site has not been clearly indicated.
- The trial hole was not left open and could not be inspected.

The report of the Planning Officer recommends a Refusal of retention and permission consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

Environment Section – report notes that the Tigín is served by an existing septic tank and percolation area which are located on poorly drained lands, and that the proposed

treatment system will be located on a slope requiring a pumped system. The report recommends that Further Information is sought in relation to the opening of the trial hole to facilitate inspection and that details of the pump system for the treatment system are submitted.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The report of the Planning Officer notes that no third party observations were received.

4.0 Planning History

Appeal Site (valid planning applications):

PA. Ref. 21/433 – Permission REFUSED for a house, wastewater treatment system and relocated access, and retention permission REFUSED for mobile home for temporary duration and temporary waste water treatment system which would be removed on completion of house.

Refusal reasons related to non-compliance with rural settlement policy, traffic safety, inadequacy of wastewater disposal, creation of undesirable precedent and consolidation of unauthorised structures on the site.

PA. Ref. 20/386 – Permission REFUSED for a house, wastewater treatment system and relocated access, and retention permission REFUSED for mobile home for temporary duration and temporary waste water treatment system which would be removed on completion of house.

Refusal reasons related to non-compliance with rural settlement policy, traffic safety, inadequacy of wastewater disposal, design, creation of undesirable precedent and consolidation of unauthorised structures on the site.

PA. Ref. 19/189 – Permission REFUSED for a house and wastewater treatment system.

Refusal reasons related to non-compliance with rural settlement policy, traffic safety, design, inadequacy of wastewater disposal, and consolidation of unauthorised structures on the site.

The report of the Planning Authority refers to a history of enforcement on the appeal site relating to an unauthorised warehouse, access and private laneway and also a mobile home.

5.0 Policy Context

5.1. Development Plan

5.1.1. National Planning Framework (NPF) – Project Ireland 2040 (2018)

National Policy Objective 15 states -

‘Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.’

National Policy Objective 19 states -

‘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. In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

5.1.2. **Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021**

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.1.3. **Ministerial Guidance**

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within an area which is analogous with that identified as an 'Area Under Strong Urban Influence' (see Map 3.1. Roscommon County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

5.2. **Development Plan**

5.2.1. The relevant development plan is the Roscommon County Development Plan 2022-2028. The appeal site is not subject to a specific land-use zoning in the Roscommon County Development Plan 2022-2028.

5.2.2. Chapter 3 of the Roscommon County Development Plan 2022-2028 sets out the policy for rural housing. Section 3.10 of the Development Plan provides that any rural areas located within the commuter catchment of a city or large town are considered to be 'areas under urban influence'. Map 3.1 'Commuter Catchment Areas' indicates the parts of the County which are affected by such commuting patterns. These areas are referred to as 'Policy Zone A'. Applicants seeking a dwelling within an area 'under strong urban influence' must have a demonstrable economic or social need to live there (the criteria for which is set out in Table 3.2).

5.2.3. Other objectives/sections of the Roscommon County Development Plan 2022-2028 relevant to this assessment are as follows:

- Policy Objective PPH 3.12
- Policy Objective PPH 3.13
- Policy Objective PPH 3.14

- Figure 12. 4 – Sight Distance Requirements

5.3. Natural Heritage Designations

- Carrickynaghtan Bog NHA (Site Code: 001623) – c. 1.6 km east.
- Middle Shannon Callows SPA (Site Code: 004096) – c. 3.6 km south-east.
- River Shannon Callows pNHA (Site Code 000216) – c. 3.6 km south-east.
- River Shannon Callows SAC (Site Code 000216) – c. 3.6 km south-east.

5.4. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and therefore is not subject to EIA requirements. See Form 1 (attached).

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision to refuse retention and permission. The grounds for appeal may be summarised as follows;

- The applicants, who are members of the travelling community, acquired the site in 2004, have resided on the site in a mobile home since 2019, and are seeking to settle in the area.
- The applicants use part of the shed for utilities, a play area, and home office (the use of the part of the shed corresponds with that of a Tigín, described in the particulars submitted as support facilities to caravans/mobile homes on a halting site).
- The Planning Authority failed to place all the information submitted with the planning application online which resulted in third parties being unable to establish the applicants' unique housing needs.
- Incorrect pre-planning minutes were placed on the file.

Re. Rural Housing Policy:

- The Roscommon County Development Plan 2022 – 2028 has a single policy in respect of traveller accommodation which refers to the implementation of Roscommon County Council's Traveller Accommodation Programme (TAP). This programme is limited to travellers with certain means and does not apply to the applicants, who's means are above that covered by the TAP. The Roscommon County Development Plan therefore does not have a strategic policy basis to establish the acceptability of the applicant's proposal.
- The needs of travellers are noted in the National Planning Framework (NPF) and the Northern and Western Regional Assembly Regional Spatial and Economic Strategy (RSES). National policy objectives concerning travellers is not carried through to the Roscommon County Development Plan.
- The applicants' case for compliance was in respect of being intrinsically part of the rural community, and their personal ethnic background circumstances being members of the traveller community seeking to settle and exceptional circumstances.
- The planner's report does not reference the applicants being members of the traveller community, notwithstanding the extensive reference to this in the planning report submitted in support of the application. Similarly no reference is made to the TAP.
- The applicants' application for inclusion on the Council's social housing list, which is a pre-requisite of getting onto the Traveller Accommodation Programme, had been rejected. In any event, even if they were to have succeeded in getting onto the programme, they were advised there are no sites that could be made available to them.
- If the applicants in the future were successful in getting onto the TAP and being offered accommodation, it would not be in or around Athlone and would not be in a town or built-up area. Any offer would be to locate them in the only halting site referenced in the TAP at Ballynacullia, 3km NE of Roscommon, or in one of only three "Traveller-specific Hybrid Housing" sites. One such site is 1km outside Roscommon on the N63 (Cluain Airne), another 1.5km SE of Castelrea

(Bri Chaoilinne) on the N60 and the third is at Torpan Beg, Ballyforan, 20km from the appeal site.

- The reason for the applicant submitting details of past employment in the local area was not to demonstrate an economic justification to live in the local area but rather to highlight his historic connections to the local area. The planner was misleading in referencing the distances of these past employment areas from the local area in which the application site is located, in particular Carickobrien, which is only 5km to the east. The peatland on which the applicant was employed to cut turf was only 1km directly south of the appeal site.
- The Roscommon County Development Plan does not define 'local area' for the purpose of determining whether a local housing need can be established.
- In expressing the view that Boggafin is not the same rural area as Cornafulla and, therefore, could not be considered part of the "local area", the Planning Authority have failed to address other examples more remote locations were considered and permission subsequently granted. At its nearest point, the Parish of Drum, within which the townland of Cornafulla is located, is 1.5km from the first applicant's homeplace. The furthest points in the Parish of Drum from the site are 5km to the south and 7.3km to the north, the latter of which is further from the application site to the first applicant's homeplace.
- The Ministerial Guidelines were never designed to be interpreted rigidly. They were expected to be flexible and positive in addressing individual housing needs.
- Information was provided in support of the application in respect of a past appeal case relating to two traveller families seeking to retain mobile homes on lands in their ownership for a temporary period in South Kilkenny. In accepting that the applicants, who were not originally from the local area, had a genuine housing need, the Board considered that the principle of the application was in accordance with National Policy, as it related to the provision of Traveller Accommodation, and that a temporary permission was warranted. Also factored into the appeal assessment was the fact that, notwithstanding the area being designated as "under urban influence", statistics showed the area had recently been subject to population decline (Ref: ABP-300978-18 refers). The

applicants' case is stronger in this instance than it was in the South Kilkenny case. In this regard, the following factors are considered relevant:

- The applicants have an ongoing agricultural interest in their land, albeit it is not a working farm per-se. They also have an equine property registration number.
- The Development Plan contains no definition of the "local rural area". The local housing family connections arise within 6.5km of the application site.
- Others have had their local connections established and accepted at a greater distance.
- While the site is within an area designated as being under urban influence, the census statistics show that, at the local level, the local population has declined. The principle of rural housing policy as provided in the Ministerial Guidelines and in Roscommon is to support rural housing without justification of housing need in areas of population decline.
- The requirements of the Housing (Traveller Accommodation) Act 1998, together with national policy and guidelines places the responsibility on local authorities to provide accommodation for families in need. The applicants cannot get on that programme as they have been rejected for inclusion on the local authority housing list, and there is no suitable accommodation available for them in County Roscommon. The policy in the Development Plan only meets the housing needs of members of the Traveller community that fall below a particular economic threshold and therefore does not the overarching obligation to facilitate the housing options of all members of the traveller community.

Re. Wastewater treatment:

- The trial holes were infilled for safety reasons. Photographs of the trial holes were submitted with the planning application but appear not to have been placed on the file. Details of the pumping station have been submitted with the appeal.

Re. Precedent:

- The Planning Authority have permitted mobile homes on a temporary basis and their approach to the proposed development is inconsistent (see PA. Ref.'s 22/600, 21/621 and 23/3).

Re. Ad-Hoc Development:

- Reference to the proposed development representing "ad hoc" and "sporadic" development is without foundation when the general pattern of rural housing development in the vicinity of the site is taken into consideration. The residential unit set back from the road and access directly from the public road is the typical layout of rural single-house development in the vicinity.
- Permission has been recently granted in the area for backland development (PA. Ref. 22/501 refers).
- The proposal is temporary in nature.
- No objections were submitted in respect of the proposal.

Sightlines:

- Assessment of sightlines has not been made by an engineer and the approach to same is inconsistent. Concerns in relation to sightlines were not raised in the previous applications on the site (i.e. PA. Ref's 21/433 or 19/189). Under PA. Ref. 20/386 the engineer did not raise sightlines as an issue, although the Planning Officer considered sightlines to be inadequate.
- Unobstructed sightlines of 160 metres in either direction from a 3 metre set-back have been indicated.

The appellants' submission is accompanied by a cover letter submitted with the planning application outlining the specific circumstances of the applicant(s) and their family; correspondence regarding the applicants' children; correspondence relating to the Niall McGinley's employment; an Affidavit from Niall McGinley's father; a Site Characterisation Report; letter of support from the Irish Traveller Movement; technical specifications of pump system for wastewater treatment system; and correspondence

in relation to pre-planning consultations and issues experienced by the applicants' agent accessing to information at the public counter of Roscommon County Council.

6.2. Planning Authority Response

A submission was received from Roscommon County Council and notes the following;

- Information was removed from the public files as it contained personal information for GDPR purposes. All documentation submitted was however available to those working on the case in Roscommon County Council.
- Planning reports refrain from making reference to the applicant's personal circumstances. This is also the case in the context of the planning applications of other applicants in rural areas, which the applicant has referred to.
- Reference to pre-planning consultation in February 2023 was for the purpose of validating a planning application.
- The submitted SCR did not contain photographs. The inclusion of photographs did not adversely affect the outcome of the case. Requests to re-open trial holes are routinely made by Roscommon County Council.
- In instances where permission/retention has been granted for mobile homes such permissions have only been facilitated in instances where the proposals clearly represented the provision of short term, temporary on-site accommodation whilst construction work is on-going at an existing dwelling on or immediately adjacent to the subject site. In contrast, the proposal would provide a permanent residence for the applicants over an extended period of time, entirely unrelated to any existing residential construction project.

6.3. Observations

None received.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including the appeal, the observation of the Planning Authority and having inspected the site,

and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Rural Housing Policy
- Waste Water
- Amenity
- Access
- Other Issues
- Appropriate Assessment

7.2. Rural Housing Policy

- 7.2.1. As the proposed development comprises the use of a mobile home as a residence, and notwithstanding that the intended use of the structure is for a temporary duration (i.e. 5 no. years), I consider that compliance with the rural housing policy, as set out in Chapter 3 of the Roscommon County Development Plan 2022 – 2028, is required.
- 7.2.2. Map 3.1 of the Roscommon County Development Plan 2022 – 2028 indicates areas of the County which are subject to specific commuting patterns, with areas located within the commuter catchment of a city or large town considered to be Areas Under Urban Influence, or Rural Policy Zone A. Policy Objective PPH3.13³ requires that in areas defined as Areas Under Urban Influence, applicants will be required to demonstrate a social or economic link (as per Table 3.2). I note that there is no specific provision in the rural chapter of the Roscommon County Development Plan 2022 – 2028 for applicants from a traveller background.
- 7.2.3. Having regard to Map 3.1 I note that the appeal site is located within an Area Under Urban Influence/Rural Policy Zone A and as such applicants within Rural Policy Zone

³ Policy Objective PPH13 refers to 'single houses'. In my opinion as the structure is to be used as a residence I consider it to be analogous to a house and therefore the provisions of Policy Objective PPH13 therefore apply.

A must demonstrate compliance with Table 3.2 of the CDP. Table 3.2 of the CDP sets out two criteria under which an applicant may be considered eligible for a dwelling within Rural Policy Zone A.

'Economic Need' criteria comprises the following –

- *Persons engaged full-time in a rural-based activity, who can show a genuine need to live close to their workplace and have been engaged in this employment for over five years. This would include those working in agriculture, horticulture, farming, forestry, bloodstock, peat industry, inland waterway or marine- related occupations, as well as part-time occupations where the predominant occupation is farming or natural resource-related;*
- *A person whose business requires them to reside in the rural area. The nature of the operations of the business shall be specific to the rural area. Any such application shall demonstrate the viability of the business and clearly set out the nature of activities associated with the business and why it requires the owner to reside in the vicinity.*

'Social Need' criteria comprises the following –

- *persons who were born within the local rural area, or who are living or have lived permanently in the local rural area for a substantial period of their life at any stage(s) prior to making the planning application. It therefore includes returning emigrants seeking a permanent home in their local rural area who meet this definition;*
- *Persons with a significant link to the Roscommon rural community in which they wish to reside, by reason of having lived in this community for a minimum period of five years prior to applying for planning permission or by the existence in this community of long established ties with immediate family members.*

7.2.4. The documentation submitted with the planning application/appeal notes/includes;

- the applicant/Niall McGinley was born and reared in Bogganfin (a rural area c. 6.5 km from the application site) and his family still reside there.

- an affidavit from the Niall McGinley's father accompanies the planning application/appeal and notes that the applicant's family resided at a specific location, described as 'being directly adjacent to Eileen Murphy's shop'.
- an affidavit from both applicants state that they own the appeal site and do not own any other property.
- correspondence from two individuals stating that the applicant/Niall McGinley has previously undertaken turf cutting and farm work in the late 1990's and early 2000's.
- correspondence relating to the applicants' children, specifically their enrolment in school and involvement in local sports clubs.

7.2.5. Table 3.2 makes provision for two distinct categories/criteria, 'economic need' and 'social need'. The documentation submitted by the applicant notes that he operates an on-line furniture business. Reference is made in the appeal submission to 'an ongoing agricultural interest in the applicants' land' and the existence of an equine property registration number but notes that 'it is not a working farm per-se'. Having reviewed the documentation submitted with the planning application/appeal I do not consider that the applicant/applicants have demonstrated an engaged in a full-time rural-based activity or a part-time occupation where the predominant occupation is farming or natural-resource related, and therefore have not demonstrated an 'economic need' to build a house in the rural area.

7.2.6. Regarding the applicant/applicants' 'social need' I note that the documentation submitted does not demonstrate that the applicant/applicants were born within the local rural area, or that they have lived permanently in the local rural area for a substantial period their live prior to making the planning application. I note that the information submitted in relation to the applicants is for the most part self-authored, or submitted by a family member, and is therefore in my view not verifiable or independent for the purposes of establishing compliance with the rural settlement policy of the Development Plan. The 'social need' criteria also makes provision for persons with a significant link to the Roscommon rural community by reason of having

lived in the community for a minimum period of five years prior to applying for planning permission or by the existence in this community of long established ties with immediate family members. In my opinion the time spent residing at the appeal site cannot be considered to contribute towards meeting the requirements of Table 3.2 as the structure in which the applicants resided was unauthorised. In my view, the information relating to the applicants' connection to the rural area is not robust, lacks sufficient detail and does not demonstrate that the applicant/applicants resided in the rural area. I note that it would be typical for applicants seeking to demonstrate compliance with rural housing policy to submit correspondence from financial institutions, employers, government departments, Birth Certificates etc. to verify the applicants place of residence at particular periods, and the duration of same and the onus is on the applicants to demonstrate compliance with the requirements of the Development Plan. Regarding the specific issue of whether the appeal site could be considered to be within the local rural area of Boggafin, where it is stated Niall McGinley was born/reared, noting the absence of specific information to support the applicants claim I am of the view that consideration of same is moot.

- 7.2.7. In summation, I consider that the applicant/applicants have not demonstrated compliance with the Roscommon County Development Plan 2022 – 2028, specifically the criteria set out in Table 3.2 in relation to proposals for single housing, which the proposed development is considered analogous with, in the rural area and on this basis I submit to the Board that permission be refused.

7.3. Waste Water

- 7.3.1. The applicants are proposing to decommission an existing septic tank and replace it with a septic tank and percolation area. The new system is proposed for a temporary duration (i.e. 5 no. years). The proposed system will serve the Tigín facilities in the shed. The mobile home is not indicated as being connected to the proposed system.
- 7.3.2. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a 'Locally Important Aquifer' where the bedrock vulnerability is 'High'. A ground protection response to R1 is noted. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice. The

Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

- 7.3.3. The trial hole depth referenced in the Site Characterisation Report was 2.8 metres. Bedrock was not encountered in the trial hole. The water table was recorded at 2.7 metre below ground level (bgl). The soil conditions found in the trial hole are described as comprising medium loam top soil and gravel, sand and small stones. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 10.28 was recorded. A P value/surface test was also carried out and a value of 21.97 recorded⁴. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a septic tank and percolation area. I was unable to inspect the trial hole at the time of my site inspection.
- 7.3.4. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021. Whilst a generic site section has been submitted for the propose septic tank, noting the location of the water table at 2.7 metres bgl and the fact that bedrock was not encountered in the trial hole and I am satisfied that the required depth of unsaturated soil/subsoil (i.e. 1.2 metres in this case as per Table 6.3 of the EPA Cop) can be provided.
- 7.3.5. I observed rushes on the site, which is suggestive of poor drainage, at locations to the front/south-east of the mobile home and the rear/north-west of the shed. I note that the applicants are proposing to pump effluent c. 130 metres to a percolation area at the rear/western part of the site where site conditions are more favourable and where based on my site inspection rushes were not present. Details of the proposed pump have been submitted. The second refusal reason cited by the Planning Authority states that the applicants have not adequately demonstrate that the site can attenuate and dispose of wastewater in accordance with the EPA Code of Practice. The report of the Environment Department notes concerns in relation to 'design rationale of the existing system' however I note that this system is to be replaced. The Planning Authority also

⁴ The summary figures of the site test results in Section 4 of the SCR are incorrect, referring to a sub-surface result of 22.81 and a surface result of 19.14. These appear to be a typographical errors noting the detailed test results indicated in Section 3.

raise concerns given that the trial holes were not open/available for inspection during their assessment. I note that the applicants have included photographs of the trial hole in the appeal submission. The basis for the conclusion of the Planning Authority regarding compliance with the EPA CoP is unclear. Based on my observations of the site, and specifically the location of the percolation area, and the information contained in the Site Characterisation Report, I am satisfied that the site can cater for the treatment of effluent without a threat to ground water quality or public health. I do not consider that the proposed development would warrant a refusal of permission on this basis.

7.4. Amenity

- 7.4.1. Refusal reason no. 3 notes that the proposed development would represent inappropriate ad-hoc development in the rural area, and would be seriously injurious to the amenity and of the area. I note that the mobile home is a modest structure on the site and is significantly set back from the public road. Additionally, the Tigín facilities are situated within an existing shed. Noting the scale of the development and the duration for which retention permission is sought, that being 5 no. years, I do not consider that the proposed development would be injurious to the amenities of the area, or that the proposed development would warrant a refusal of permission on this basis.

7.5. Access

- 7.5.1. The proposal entails the repositioning of an existing vehicular access to a more central position. Figure 12.4 of the Roscommon County Development Plan 2022 – 2028 requires sightlines of 160 metres for regional roads. Sightlines of 160 metres to the north-east and south-west are indicated on the drawing titled '*Proposed Site Plan and Sightlines*'. The sightline to the south-west appears to be achievable however I note that the sightline to the north-east infringes on lands outside the applicants' ownership. I note that the future maintenance of sightlines at this location cannot be guaranteed as the adjacent landowner could erect/alter the boundary along the roadside boundary thereby obstructing the sightline which the applicants' access relies on. I also note that no letter of consent has been provided in relation to the maintenance of this area free from obstructions and importantly as this area is not located within the red or blue line

boundary of the application site a condition requiring this area to be maintained free from obstructions cannot be attached should the Board be minded to grant permission for the proposed development. In addition, I note that a road sign is located close to the proposed entrance. This sign is not indicated on the sightline drawing and therefore its impact on visibility cannot be determined. On the basis of the forgoing I submit to the Board that sightlines do not comply with Figure 12.4 of the Roscommon County Development Plan 2022 – 2028. Furthermore the extent of sightline which has been indicated to the north-east is dependent on lands outside the red/blue line boundary and as such a condition requiring the maintenance of this visibility envelope in perpetuity cannot be attached.

7.6. Other Issues

- 7.6.1. Information on planning file - the appeal submission raises concerns in relation the completeness of information relating to the planning application on the public file and also the record of pre-planning consultations. The assessment above represents my *de novo* consideration of all planning issues material to the proposed development. Having reviewed the information submitted I am satisfied that the information is adequate to allow for an assessment of the proposed development.
- 7.6.2. Adequacy of Development Plan - the appeal submission contends that national policy objectives concerning travellers are not carried through to the Roscommon County Development Plan 2022 – 2028, that policy in the Development Plan does not facilitate the housing options of all members of the traveller community, which it is required to, and that therefore there is no strategic policy basis to establish the acceptability of the applicant's proposal. I note that considerations concerning the consistency of the Development Plan with national policy and the requirements of the Planning and Development Act, 2000, as amended, are outside the scope of this appeal.

7.7. Appropriate Assessment Screening

7.7.1. I have considered the proposed development at Creggan Townland, Cornafulla, County Roscommon in light of the requirements S177U of the Planning and Development Act, 2000, as amended. The subject site is located c. 3.6 km north-west of Middle Shannon Callows SPA (Site Code: 004096) and c. 3.6 km north-west of River Shannon Callows SAC (Site Code 000216). The proposed development comprises retention permission of mobile home and Tigín facilities within a shed (for a five year period) and permission for a wastewater treatment system and vehicular entrance. No nature conservation concerns were raised in the planning appeal.

7.7.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows;

- The nature and scale of the development.
- The location of the development site and distance from nearest European site(s), and the lack of connections between the development site and European sites.
- Taking account of the screening report/determination by the Planning Authority.

7.7.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required.

8.0 Recommendation

8.1. Having regard to the above it is recommended that permission is refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning

Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Roscommon County Development Plan 2022 - 2028, it is considered that the applicants do not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in an north-easterly direction.

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.

Ian Campbell
Planning Inspector

27th September 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317583-23		
Proposed Development Summary	Retention permission for mobile home and Tigín facilities within shed for further 5 years) and permission for temporary waste water treatment system and percolation area for period of 5 years, new vehicular entrance and ancillary site development works.		
Development Address	Creggan Townland, Cornafulla, County Roscommon		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No		X	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		No	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required

Yes		Screening Determination required
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Inspector: Ian Campbell

Date: 27th September 2024