



An  
Bord  
Pleanála

## Inspector's Report

**ABP 318153 - 23**

<b>Development</b>	Outline Planning Permission to erect two storey house, single dwelling, septic tank with percolation area and all assoc. site works. Access via new entrance to greenfield site.
<b>Location</b>	Killachonna, (Clibborn), Moate, Co. Westmeath.
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	23 111
<b>Applicant(s)</b>	Gráinne Mary Robbins.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Gráinne Mary Robbins.
<b>Observer(s)</b>	Dervilla Murphy
<b>Date of Site Inspection</b>	23/01/2024
<b>Inspector</b>	Aisling Dineen

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## Appendix 1 – Form 1: EIA Pre-Screening

## **1.0 Site Location and Description**

- 1.1. The site of the proposed development is located on the west side of a local road in a rural area to the north of the town of Moate in County Westmeath. It comprises part of a larger field and is bounded by a fence on three sides. There is a stonewall ditch and a wedge of land between the front site boundary and the near edge of the public road (This wedge of land along the public road is delineated as being outside land within the ownership of the applicant) A large mature tree is situated just forward of said stone wall.
- 1.2. The site is situated within a large field which appears to under agricultural use. The south boundary of the field, within which the site is located, is positioned adjunct to an access lane, which serves a dwelling house.
- 1.3. The site has higher ground levels at the front (east) and levels reduce in gradient towards the west. Therefore, there would potentially be an incline up to the access/egress point, near the public road.
- 1.4. There is extensive one-off housing in the general area of this site.

## **2.0 Proposed Development**

- 2.1. Outline planning permission is sought for a dwellinghouse with septic tank and access.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority made a decision to grant refuse planning permission on the 11th September 2023, for the following reasons:

1. The subject site is located in a rural area outside any designated settlement and in an area under strong urban influence where development which is not rural generated should be more appropriately located in towns and villages and designated settlements. On the basis of the documentation submitted with the current application, it is considered that the applicant does not comply

with the scope of criteria for rural housing need at this location. Accordingly, to permit the development as proposed would contravene Councils policy objective CPO 9.1 of the Westmeath County Development Plan 2021 -2027, would be contrary to the Sustainable Rural Housing – Guidelines for Planning Authorities (2005) and would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the siting and design of the proposed development, and given the topography of the site, with the ground level of the proposed dwelling in excess of 4.5 metres above adjoining public road level, the access requirement to remove much of the front boundary stone wall and raised roadside verge, it is considered that the proposed development, would be visually obtrusive, would seriously detract from the visual amenities of the area and depreciate the value of property in the vicinity contrary to the Development Plan CPO 16.32 and 16.33. Accordingly, the development, if permitted, would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

The Chief Executive's decision reflects the planner's report.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- Planning policy and planning history details for area is outlined.
- Area under strong urban influence. No compliance documents in accordance with local needs policy 9.1 submitted with application.
- Site is labelled as grassland, saltmarsh, swamp in the 'National Land Cover' description. The District Engineer (DE) notes that the site is set back from the road and there is an existing stone wall on front boundary and these would need to be removed and set back. The planners report notes that the removal of roadside boundary and planting would impact negatively on the visual amenity of the area.
- The DE requested further information regarding the provision of adequate sightlines (90 metres). This was basis for a previous refusal 18/7135.

- The Site Suitability test is based is dated 2018 and was submitted previously on an application, which was refused (18-7135). OPW maps indicated flood risk at site. A current Site Suitability report required via further information.

### 3.2.2. Other Technical Reports

#### Engineering Report

- Concern raised regarding sight lines.
- Policy CPO 16.33 requires that safe unobstructed sightlines are required. Provided sightlines are not are not in line with this policy. Applicant is to review proposal to ensure 90 metres sight lines are provided.
- The Site Characterisation Report is dated 2018, which does not comply with Code of Practice (CoP) 2021. Applicant shall submit a new Site Assessment in accordance with the CoP 2021.

### 3.3. Prescribed Bodies

None

## 4.0 Planning History

Appeal Site: Planning Register Reference Number: 18/7135. Refused planning permission for 5 No reasons relating to; siting and design, ribbon development, excessive concentration of septic tanks, traffic safety and flooding.

Adjacent Site: Planning Register Reference No 07/4455: Refused planning permission for 3 No reasons relating to; ribbon development, effluent treatment and flooding, infill development/visual amenity.

Nearby Site – Opposite side of Road - Planning Register Reference No. 20/7091, ABP 309640-21. Board refused planning permission for 2 reasons relating to ribbon development/housing need and excessive density of development served by private treatment systems.

## 5.0 Policy Context

### 5.1. National & Regional Policy

- 5.1.1. The 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005' promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the Guidelines. Furthermore, in accordance with the provisions of the Guidelines, the Westmeath County Development Plan, 2021-2027 includes a detailed identification of the various rural area types specific to the county at a local scale and 'Map 9.1: Rural Typology' of the Plan details that the site is located in a 'Rural Area under Strong Urban Influence'.

### 5.2. Development Plan

- 5.2.1. Westmeath County Development Plan, 2021-2027

#### **Chapter 2:           Core Strategy**

#### **Section 2.14:       Rural Areas**

#### **Section 2.14.1:     Rural Area Under Strong Urban Influence:**

This area comprises most of the County and is characterised by stable population levels with well-developed town and village structures and a strong agricultural base. The objective in these areas is to maintain a stable population base in rural areas within a strong network of villages and small towns. The policy is to facilitate housing development by people who have strong links to the particular rural area, who are an intrinsic part of the rural community.

Such persons would normally have spent substantial periods of their lives living in the rural area as part of the established rural community, e.g. people employed in the rural area including farmers and their sons and daughters, people originally from the rural area and wishing to return, people wishing to reside near elderly parents to provide security and care, elderly parents wishing to live near other family members, people who would have grown up in rural areas seeking to build their home close to other family members, people working in rural areas such as teachers in rural schools.

The aim is to support the desire of individual applicants with strong rural links to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns or villages.

Core Strategy Policy Objectives:

- CPO 2.11: Support the sustainable development of rural areas in Westmeath 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.
- CPO 2.12: Support the servicing of rural villages (serviced sites) to provide an alternative to one-off housing in the countryside, in line with RSES objective RPO 4.78.

### **Chapter 3:           *Housing***

Section 3.5:           *Future Housing Requirements*

Section 3.5.2:        *Rural Single Housing*

It is recognised that there is a continuing need for housing provision for people to live and work in rural Westmeath. The NPF states that it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. Elsewhere, single housing in the countryside will be facilitated based on siting and design criteria and having regard to the viability of smaller towns and rural settlements. These requirements are reflected in the Core Strategy of this Development Plan which includes a differentiation between 'Rural Areas under Strong Urban Influence' and 'Structurally Weak Rural Areas'.

### **Chapter 9:           *Rural Westmeath:***

Section 9.4:           *Rural Settlement Strategy:*

*Rural Housing Need Policy Objectives:*

CPO 9.1: Areas Under Strong Urban Influence:

To accommodate demand from individuals for permanent residential development in defined 'Rural Areas Under Strong Urban Influence'

who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations.

*Local Housing Need:*

Permit residential development in areas defined 'Rural Areas Under Strong Urban Influence and Stronger Rural Areas' subject to the following circumstances:

1. Persons who are actively engaged in agriculture, horticulture, forestry, bloodstock and peat industry,
2. Members of farm families seeking to build on the family farm,
3. Landowners for this purpose being defined as persons who own the land 5 years prior to the date of planning application,
4. Persons employed locally whose employment would provide a service to the local community,
5. Persons who have personal, family or economic ties within the area, including returning emigrants,
6. Persons who wish to return to farming and who buy or inherit a substantial farm holding which is kept intact as an established farm unit, will be considered by the Council to be farmers and will be open to consideration for a rural house, as farmers.

Where there is already a house on the holding, refurbishment or replacement of this house is the preferred option.

The local area for the purpose of this policy is defined as the area generally within a 10km radius of the applicant's family home.

CPO 9.2: In line with Circular Letter PL 2/2017, review rural housing policy in line with Development Plan or other relevant Guidelines issued by the Minister in this area having regard to NPO 19.

*Section 9.5: Environmental Capacity:*

*Rural Housing Criteria Policy Objectives:*

CPO 9.8: Ensure that, in permitting one-off rural housing, key rural assets such as water, natural and cultural heritage and landscape quality are protected and maintained.



CPO 9.9: Protect the natural assets of the county including ground and surface water and ensure that physical standards are met including soil conditions suitable for effluent disposal and the avoidance of flood areas.

CPO 9.10: Protect the integrity of the landscapes as identified in the Landscape Character Assessment and protected views.

CPO 9.11: Seek that all proposed on-site wastewater treatment systems for single dwellings and extensions which will increase the population equivalent loading shall comply with the EPA Code of Practice for Wastewater Treatment and disposal Systems serving Single Houses (2009) and any revision thereof.

CPO 9.12: Seek to ensure that waste water treatment systems are installed by competent persons with regular monitoring and testing carried out on the treatment system, in accordance with the planning permission.

CPO 9.13: Have regard to the Department of Environment, Community and Local Government's Sustainable Rural Housing Guidelines 2005, and any subsequent amendment in the assessment of applications for rural housing.

#### *Section 9.5.1: Rural Housing Siting and Design*

#### *Section 9.6: Development within the Hinterland of Settlements:*

The aim of policy in these areas is to avoid undesirable ribbon development on the approaches to settlements and to protect the fabric of settlements by restricting development on the outskirts of the regional centre, towns and villages. Provision will be made for farmers, members of farm families and people that have spent substantial parts of their lives as part of the established rural community building their first home.

Proposals shall in all instances, except for reasons of traffic safety, design or other environmental consideration, be clustered with the existing family home or if farm buildings are isolated from the family dwelling, consideration can be given to grouping with farm structures.

#### *Development within the Hinterland of Settlements Policy Objectives:*

CPO 9.14: Promote the clustering of houses particularly on the same landholding or for the same family and promote shared accesses to minimise hedgerow removal.

CPO 9.15: Control ribbon development, particularly on approach roads into the county's regional centre, key town, self-sustaining growth towns and

self-sustaining towns.

CPO 9.17: Ensure that the road network is adequate to cater for the development and that the traffic movements generated by the development will not give rise to a traffic hazard.

CPO 9.18: Retain, insofar as practicable, existing hedgerows and trees on new house sites. Replacement trees and hedgerows should be of native species.

CPO 9.19: Generally, resist urban generated and speculative residential development outside the settlement hierarchy.

CPO 9.20: Encourage innovative design, and layouts that promote solar gain subject to protecting the character of the landscape.

CPO 9.21: Undertake a review of the Westmeath Rural Housing Design Guidelines.

### ***Chapter 10: Transport, Infrastructure & Energy:***

#### *Wastewater Policy Objectives:*

CPO 10.100: Ensure that private wastewater treatment plants, where permitted, are operated in compliance with EPA's Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (PE. ≤10) (EPA 2009), as may be amended.

### **Chapter 13: Landscape and Lake Management:**

#### *Section 13.12: Character Area 6: Lough Ree & Shannon Corridor*

#### *Chapter 16: Development Management Standards:*

#### *Section 16.3.7: Rural Housing:*

Notwithstanding an applicants' demonstration of compliance with the rural housing criteria as set out at Chapter 9. It is important to note that applicants are also required to meet overriding sustainable planning practices in terms of visual impact, design standards, environmental and traffic safety issues.

The design of rural housing development requires careful design consideration to ensure that all new development sensitively integrates into the landscape. This requires specific focus on site selection, design, scale and form of the proposed development. The most successful designs subtly integrate with the receiving landscape by selecting naturally sheltered and screened sites and the development of a simple built form complimented with the use of materials that are reflective of

traditional vernacular.

### CPO 16.33

#### Boundary Treatment

The design of entrance gates should be in keeping with the rural setting. Entrances, wing walls and piers, which are not demonstrated to be in character with the rural location of the proposed development will generally not be permitted. All planning applications must include detailed drawings and specifications for vehicular entrance arrangements.

#### Access and Sight Lines

- All applications for planning permission must include (at a minimum scale of 1:500) comprehensive details of the way in which safe access and egress to the site can be achieved.
- Existing roadside hedgerows and trees should be retained as much as possible. The entrance should be carefully considered to achieve the required sight distance with the removal of a minimum extent of existing hedgerow.
- Where satisfactory access can be achieved only by removing large stretches of roadside hedgerow/ditches/stone boundaries, an alternative site for the proposed development should be sought.
- The sharing of vehicular entrances will be encouraged where appropriate in order to avoid a proliferation of access points. Where a new house is to be sited adjacent to existing dwellings, use of existing entrances, avenues and driveways should be considered.
- Safe unobstructed sight distances should be provided and maintained thereafter from vehicular entrances onto the road network as follows:
  - Local Roads: 90 metres, (subject to the discretion of the Planning Authority where a lesser distance is demonstrably adequate in terms of traffic safety).
  - Regional Roads: 150 metres - National Roads: 230 metres

### **5.3. Natural Heritage Designations**

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

- The Lough Ree Proposed Natural Heritage Area (Site Code: 000440), approximately 12km west of the site.
- The Lough Ree Special Area of Conservation (Site Code: 000440), approximately 12 km west of the site.
- The Lough Ree Special Protection Area (Site Code: 004064), approximately 12 km west of the site.

### **5.4. EIA Screening**

5.4.1. Having regard to the nature and small scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- There was 1 previous application on the site which was refused 18/7135. In relation to this previous refusal the appellant wishes to rectify misinformation and misunderstanding relating to the previous file.
- The following observations are submitted relating to 18/7135:
  - The size of the proposed house was to be 2 800 sq/ft – not large scale by current standards.

- The proposed house was to have been cited 1.0 metre below road level and substantially lower than adjacent houses. The house type proposed was dormer which would have been far less prominent than the two-storey on the opposite side of the road.
- Under the Westmeath Development Plan 2014 -2020, policy P-GRH3 referred to ribbon development and policy P- GRH1 referred to the Sustainable Rural Housing Guidelines, which defined ribbon development as *'high density of almost continuous road frontage type development, where 5 or more houses exist on any one side of a given 250 metres of road frontage'*. The attached map show there is 1 house within 250 metres of the proposed site to the north. To the south there is one house on the road and one house set back from the road; the proposed house would have been a third house, on a given stretch of 250 metres towards the south.
- Regarding waste water treatment, the EPA Code of Practice refers that densities of dwellings with waste water treatment systems greater than 6 per hectare in areas of extreme or high vulnerability may have negative impacts. Including lands to the north south east and west encompassing 40 hectares the density would be 1 house per 8 hectares.
- The entrance was moved from the southern end of the site to the northern end of the site to achieve sight distances of 99 metres to the north and 115 metres to the south.
- Regarding the reason for refusal based on flooding OPW documents/maps, it is submitted that the maps provide only an indication of areas, which may be prone to flooding. The assessment for DWWTS show no evidence of mottling, which is an indicator of seasonally high-water table. There is no vegetation on site, which would indicate wet soils and soils are free draining.
- Ms Dervilla Murphy (the appellant) is the applicants' sister, who stated that the subject field floods. The applicant has no memory of the field ever flooding.

- The following observations are submitted relating to 23/111
  - The planning authority made a significant error to state that ‘on the basis of documentation submitted’, when there was no documentation submitted with respect to local housing need.
  - A letter is submitted regarding housing need – family have been farming in the area since 1660, grew up in area and left at age 27 years, historical connections with the area, The Robinsons family changed name to Robins after the Reformation, home place is 70 metres north of the site, applicant has to dispose of home due to divorce, friends family are in the area, member of local groups such as the local art group and active interest in Moate Historical Society, member of GIY (Grow It Yourself) Ireland and hopes to start a group in Moate, jointly owns 16 acres of land across from the site with three sisters, considers to be a permanent native resident.
  - Land registry details submitted showing ownership of site since 2018.
  - Map enclosed showing the extent of family land ownership and family home.
  - CPO 9.1 referred to which states as a criteria ‘*Landowners for this purpose being defined as persons who owns land 5 years prior to the date of application*’.
  - Regarding Reason No 2 where it states having regard to ‘siting and design’ this is an error as no design was submitted with the application. Additionally, the site layout shows the ground level as being 1 metre below the adjoining road level, but the planning report states the proposed dwelling is in excess of 4.5 metres above road level. This is an error.
  - The Engineer’s Report incorrectly describes the site as rising from the public road but the site falls away from the public road with the rear of the site 2.7 metres below the public road level.

- There was no proposal to remove much of the 'front boundary stonewall and raised roadside verge' The site layout map shows 5 metres of stone wall to be removed. This is considered to be an error.
- The entrance was shown incorrectly on two drawings and should be on the north end of the site, where the required sight distances are provided.
- Regarding objectives CPO 16.32 and CPO 16.33 it is the applicant's intention to work with the planning authority regarding house design and boundary treatment.

## 6.2. **Applicant Response**

The applicant is the appellant.

## 6.3. **Planning Authority Response**

No response submitted.

## 6.4. **Observations**

Dervilla Murphy

- The outline planning permission was subject to a previous application and was refused and there has been no substantial change to the site since.
- The site has no road access. The corner on the road continues to cause difficulties for large tractors and machinery and people walking. A land transfer to Westmeath Co. Co., for land between the site and the road has never been completed.
- The site is subject to flooding after heavy rainfall, due to a hill to the west and many springs in the area. The adjacent site was refused permission partly due to flooding.
- The appellants maps shows that the proposed dwelling would be the 8<sup>th</sup> house in 250 m of roadway.

- Gráinne Robins previously appealed a decision to grant planning permission (Planning Register Reference No. 20/7091, ABP 309640-21), 40 metres from her own site and owned by her sister Fiona Robbins Claffey. This appeal was successful and one of the reasons related to ribbon development. Her arguments about ribbon development under this appeal are inconsistent with the previous appeal.
- The area of the field within which the site is located is stated to be 10.06 acres however it is submitted it is c. 4 acres in size.
- The previous appeal (ABP 309640 – 21) refers that one off housing is rampant in the area and such houses are dependent on individual effluent treatment systems, which would be a pollution threat and could not be considered to be sustainable.
- There are wells on the properties of Nessa Robins and the observers' property and concern is raised regarding flooding of the area and public health issues. The site/field of the site has always been subject to flooding. Photographs are submitted. Refer to Westmeath Strategic Flooding Assessment CDP 2001- 2027.
- Westmeath County Council purchased by CPO, the area of land to the front of the site in 1996 for the purpose of road realignment, following several traffic accidents on the bend in the road. The Council removed the existing roadside boundary but the transfer of land on the roadside into the Councils ownership was not ever completed. The proposed development is land locked and has no road access.
- Sightlines are not achievable to the south. Sight lines to the north are not achievable.
- The appellant has provided no documentary evidence to back up her local need. It is acknowledged that she is from Moate and grew up in Moate.
- The observer, the applicant's sister, submits that they have no relationship to the Robinsons, a quaker family who lived in the area and the Robins family are a Catholic family, who have roots in Clara, Co. Offaly. Some of the statements made under the appeal are historically incorrect.



- The land being referred to by the appellant is 12.81 acres and is not 16 acres and this land has been for sale with the appellants agreement. Also, the appellant does own the site for which she is applying for planning permission but this was not left to her by her father.
- Regarding the divorce settlement it is assumed that a copy of final divorce court order would be given to support this statement. The applicant's son turned 18 in 2018 and the appellant has made no effort to sell her house.

## 6.5. Further Responses

None.

## 7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authority's decision to refuse planning permission. I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Rural Housing Policy
- Application Documents
- Traffic Safety
- Waste Water Treatment
- Flooding
- Appropriate Assessment

7.2. Rural Housing Policy

7.3. The area within which the proposed site is located in an '*Area Under Strong Urban Influence*', as identified under the '*Sustainable Rural Housing, Guidelines for Planning Authorities*', 2005, and this classification is also replicated under Map No 9.1; 'Rural Typology County Westmeath' of the Westmeath CDP. The guidelines

state that these areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns and will generally be under considerable pressure for the development of housing due to their proximity to such urban centres.

- 7.4. In this instance, the area is considered to be under the commuter catchment of Athlone and is under pressure for one off housing due to proximity to such routes as the M6/N6 Corridor in addition to the N62 National Route.
- 7.5. The NPF – National Planning Framework, under National Policy Objective No 19 states that it is important to ensure that a distinction is made between areas under urban influence and elsewhere and that within ‘*areas under urban influence*’ it will be necessary for applicants to have ‘*demonstrable economic or social need to live in a rural area*’.
- 7.6. The CDP under Objective CPO 9.1 aims to accommodate individuals in ‘*Rural Areas under Strong Urban Influence*’, who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations. In particular, it must be established whether the applicant meets one of the 6 No. criteria for ‘housing need’ listed under para. 5.2.1 (Chapter 9), above.
- 7.7. Having inspected the site and the area and with regard to proximity to large towns and national routes, I am of the viewpoint that there is no doubt that the area is under strong pressure for development. The general area, north of Moate, is in fact subject of intense ribbon development, which has brought about a situation of agglomeration of septic tanks/treatment systems in this un-serviced rural area. I note that the inspector under appeal reference ABP-309640-21 (across the road) in referring to the area states that: ‘*This is a location in which one-off housing is rampant and these houses are dependent on private individual effluent treatment systems*’. The issue of ribbon development will be discussed below under Para 7.41.
- 7.8. The applicant/appellant makes the case that she was born in the area and grew up in the area and didn’t leave until she was 28 years of age. She has an address at Kilfaughney, Glasson. It is submitted that the applicant has been required under divorce arrangement to sell her house when her youngest child turned 18 years of age. The inference is that this amounts to her housing need. The applicant refers to

her jointly owning 16 acres of land in this area, along with her sisters. The applicant/appellant refers to her membership of local groups and her intention to start a GIY (Grow It Yourself) group in Moate.

- 7.9. The applicant/appellants' sister is the observer under the appeal and submits that she has no knowledge of the applicant having put her house up for sale when her youngest child turned 18 in 2021. The submission also states that the land, which is under joint ownership between family members has been up for sale for a period of time with the consent of the applicant/appellant.
- 7.10. This observers' submission also makes the point that the submission made by the applicant/appellant under the nearby appeal (ABP 309640-21), on a site on the opposite side of the road seems to conflict with information submitted under the current application/appeal.
- 7.11. With reference to additional planning history in the general area, I note that under ABP 312377 - 21, which is a site with similar locational characteristics as the subject appeal site, being in an area of 'Strong Urban Influence' within the greater Athlone catchment area, was refused by the Board. Under that appeal submission, issues such as ribbon development, rural environment biodiversity and lack of services etc. were argued as reasons to refuse permission. The board refused this appeal for reasons relating to the lack of economic or social based need for a house at that location.
- 7.12. Notwithstanding the submissions of the appellant including a personal statement, there is a clear lack of documentary evidence to substantiate any housing need for the applicant to build a house in this area. While there is a submitted folio certificate for the site in question there is no supporting maps to indicate which lands the folio actually refers to. A certificate without accompanying folio map is incomplete. Additionally, there is no complete folio of the agricultural lands stated to be in the ownership of the applicant and her sisters, in the area. This aside, given the submissions on the file, and the submission of the observer, the applicants sister, it appears that the applicant is from the area and lived for a period of time in the area and it appears that the land in the area is presently co-owned by the applicant and member(s) of her family. However, appeal submissions indicate that the said land is for sale with the consent of the applicant.

- 7.13. The applicant makes the case that owing to her divorce that she must sell her existing house, as her son has turned 18 years old. There is no evidence of such legal requirements submitted under the file and there is no demonstrable evidence of the applicant having sold her family home. Therefore, it is considered that the question of housing need, in the first instance, is not addressed and it is therefore considered that the applicant has not demonstrated under the application and appeal submissions that she complies with CPO 9.1 of the Westmeath CDP.
- 7.14. Furthermore, in assessing the applicants' eligibility criteria to build a house at this location, Objective 19 of the National Planning Framework requires the applicant to demonstrate a functional, economic or social housing need. It is considered that while the applicant may have a desire to live at this location, there is no demonstrable evidence submitted under the application/appeal that would indicate that the applicant has a functional, economic or social need to live at this location. Therefore, notwithstanding the applicants' links with the area, I am of the viewpoint that that applicant has not demonstrated a social or economic need as per the overarching national guidelines.
- 7.15. Application Documents
- 7.16. The appellant makes the case under the appeal that she considers that the planning authority made a significant error to state '*on the basis of documentation submitted*' under the first reason for refusal, when there was no documentation submitted with respect to local housing need. I consider this comment to be unreasonable. The planning authority noted that there was '*no compliance documents associated with housing needs policy 9.1 submitted in the application*', in order to substantiate the applicants housing need to live at this location.
- 7.17. It is reasonable to assume that the applicant was appraised of the area being one under development pressure, with reference to the applicant's submission(s) under the appeal across the road, and therefore the requirement to justify 'housing need' would have been known to the applicant. In any event, the provisions of the development plan are very clear in relation to areas under development pressure and the requirements to demonstrate housing need.
- 7.18. I note that a supplementary housing need form, which is used to justify housing need was not submitted with the application. I note that the Westmeath County Council

Planning Application Form, under its note on page 2 refers to 'Supplementary Information' and this note clearly states; '*Failure to supply supplementary information will not invalidate your application but may delay the decision-making process or lead to a refusal of permission*'. Accordingly, I consider that the planning authority was justified in using the term 'on the basis of documentation submitted', whereby the meaning of 'documentation submitted' may reasonably be interpreted as the lack of documentation submitted.

7.19. Traffic Safety

- 7.20. The proposed site is adjoining a curved road way, which has two significant bends either side of the site and there is also a dip in the road levels to the south, while the road gradually increases in gradient towards the north. The subject road is a local road, however, given its location and proximity to Moate and Athlone it is considered to be a busy route. This was observed on the date of site inspection and this observation is also rationalised by the amount of one-off housing in the general area.
- 7.21. The observer to the appeal submits that safety works were carried out by the Council at this location in order to improve traffic safety at this location. This is not verified by any documentation on behalf of the Council, however, having inspected the site and road it is apparent that works have been carried out, which leaves a wide lay by wedge of land, between the front boundary of the site and the near edge of the public road. It is reasonable to deduce that the front boundary was set back and this lay-by was created to provide improved traffic safety conditions at this section of road.
- 7.22. Standard requirements require that sight line measurements must be taken from a point 2.4m back from the near edge of the public road (x distance) and the sight lines must be measured to the inside edge of the road. This applies to a standard access sight line requirement. In this instance the required sightline requirement (y distance) is 90 metres.
- 7.23. It is noted that the site layout map presented does not demonstrate a clear sight distance triangle for a full 90 metres either side of the proposed point of entry to the site, rather arrows demonstrate the outer limits, which are off the scale of the layout map used. Therefore, the sight distance triangle is not clearly demonstrated.

- 7.24. It is also noted that the x distance as per the site layout map submitted with the application appears to be taken from a point 2.5 metres from the near side of the road edge, so essentially it is taken from a point in the middle of the said layby, which appears to have been previously modified in the interest of traffic safety. This x distance is also calculated from an area, which is outside of the site delineated in blue, as being outside the ownership of the applicant. The proposed access arrangements are therefore confusing and are lacking in sufficient detail.
- 7.25. It is not considered that this road layout and context is a normal one given the wedge of land adjunct to the public between the front site boundary and the near edge of roadway. It would seem reasonable that there should be agreement between the applicant and the roads authority/planning authority regarding the boundary and traffic safety issues at this location, as a basic element of any application on this site.
- 7.26. In any event, the development plan, under CPO 16.33 requires; *All planning applications must include detailed drawings and specifications for vehicular entrance arrangements*. I do not consider that the drawings and specifications submitted comprise '*detailed drawings and specifications for vehicular entrance arrangements*'.
- 7.27. Furthermore, it is noted that the lands either side of the site are not in the ownership of the applicant. If the required x distance were to be established as being within the front boundary of the site delineated in blue, then permission would be required from adjacent land owners to carry out the required works in order to achieve safe sight distances. Permission would also be required to modify the existing front boundary wall on both sides of the site, were it to be considered that such a modification would not detract from the visual amenity of the area.
- 7.28. It is noted that CPO 16.33, regarding the removal of boundaries, refers the following:  
*'The entrance should be carefully considered to achieve the required sight distance with the removal of a minimum extent of existing hedgerow.*  
*Where satisfactory access can be achieved only by removing large stretches of roadside hedgerow/ditches/stone boundaries, an alternative site for the proposed development should be sought'.*

- 7.29. It is noted that the planning authority considered that the removal of boundary and a tree at this location would detract from the visual amenities of the area. The appellant however argues that it is not her intention to remove the front site boundary and to only remove part thereof. I consider that the removal of the front boundary may be necessitated in order to achieve adequate sight distances. However, I do not consider that such a measure would be in accordance with the proper planning and sustainable development of the area, as it would detract from the visual amenities of the area and would be within a category described under 16.33 above.
- 7.30. Additionally, it is noted that there is a considerable slope from the site up to the proposed access, which would impact on traffic safety but would also require significant modification of ground/boundary treatment. There are no section plans submitted to demonstrate this profile. Overall, it is considered that the modification of ground levels to create an access, would encroach significantly on the natural contours of the landscape at this location. Therefore, I concur with the planning authority's appraisal of the site in terms of access arrangements and traffic safety and associated implications for the visual amenity of the area.
- 7.31. The appellant submits under the appeal submission that the desired location for the access is to the north of the site, as per the revised layout submitted under the appeal. Apologies are made with respect of the original location for the proposed site entrance and the location submitted under the appeal. In the first instance the revised location of the access to the north of the site, has not been publicly advertised. This aside, the location of the access would come within proximity of the entrance/access on the opposite side of the road. Given the lack of demonstrated sight distances and the curved nature of the subject road, it is not considered, based on the submissions on file, that this would accord with traffic safety.
- 7.32. It is noted that the District Engineer was not satisfied with the level of detail regarding site access arrangements and suggested further information be obtained to include the following *inter alia*:
- 'The applicant must propose a safe unobstructed sight distance should be provided...the current sight lines are not in line with CPO 16.33... revised drawings shall identify the extent of works to be carried out...a letter from adjacent landowner*

*witnessed by a solicitor agreeing to grant the applicant legal right known as easement to maintain appropriate sightlines...'*

- 7.33. It is noted that the applicant was not given the opportunity to respond to these requests by way of further information. However, I am of the viewpoint that given the overall substantive reason for refusal; housing need, it is reasonable that the planning authority did not proceed with obtaining more details.
- 7.34. Overall, given the lack of detailed drawings of the proposed access/egress arrangements in a complex site/roads layout situation and also considering topography of the site, which would require a vehicle to ascend from the site to approach the point of egress, which also unto itself creates safety concerns, I do not consider that the documentation submitted under the application/appeal provides sufficient details regarding safe access/egress to/from the site. I would recommend a refusal on these grounds however the Board may decide not to consider this as grounds for refusal given the substantive reasons for refusal hereby recommended.
- 7.35. Waste Water Treatment
- 7.36. The District Engineers Report submits that the EPA site characterisation report refers to 2018 and an updated report is required. I concur with this viewpoint and note that what is submitted does not correspond with current EPA CoP requirements.
- 7.37. Additionally, the proposal under the current application is for a septic tank and percolation area and this is what has been advertised publicly. However, the site characterisation report under the 2018 Site Characterisation report, which is submitted under this application states that a proprietary treatment system is proposed. Therefore, the contents of what has been advertised under this application is at variance with what is submitted with the application documents. This also brings a lack of clarity on what is actually proposed.
- 7.38. There are no detailed design details submitted with respect of the actual sizing of the percolation trenches and its dimensions. Additionally, there is no section profile of the proposed treatment system along with trenches. The CoP emphasises the importance of including such design specifications in cross section detail: *In all cases*



*additional attention should be given to providing cross-sections indicating invert levels of pipework etc (EPA Code of Practice 2021 = CoP).*

- 7.39. The observation to the appeal submits that there are wells on two nearby sites. This is not verified under the planning authority submissions nor is it indicated on the documents submitted with the 2018 Site Characterisation Assessment Report. The EPA CoP has set out minimum distances regarding the siting of DWWTS's and Wells. In the event that there are wells on nearby sites, adherence to minimum distances should be clearly presented with the application. This is necessary in order to comply with 6.3 of the CoP regarding minimum separation distances. This could have been assessed under a further information request along with other details, however in light of the substantive reason for refusal, it appears the planning authority did not pursue this issue. I consider this to be reasonable.
- 7.40. While the application is for OPP details regarding the safe disposal of domestic effluent is a matter of public health importance and I am of the viewpoint that insufficient details are submitted under the application and appeal regarding this matter, and I recommend that permission should be refused on this ground.
- 7.41. Regarding the issue of ribbon development and the similar issue of agglomeration of septic tanks/treatment systems, the appellant submits that ribbon development is not an issue with respect of the Sustainable Rural Housing Guidelines for Planning Authorities (2005) which gives an indication statement of characteristics of areas under ribbon development pressure, as *'exhibit characteristics such as high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage'*.
- 7.42. I consider that technically, this given stretch of 250 metres of road comprises a gap in the pattern of development, both north and south. There are not 5 or more houses in this particular stretch of 250 metres, on this particular side of the road. However, when one views the number of dwellings just further north and indeed south of this stretch of 250 metres, and those across the road, there is unquestionably a large number of one-off dwellings fronting this stretch of road and ribbon development is prevalent in the general area. Therefore, I would have serious concerns about the over-concentration or agglomeration of septic tanks/treatment systems in this area and the possibility of pollution. This concern also echoes the comments of the

previous inspector's report (ABP-309640-21) regarding the appeal across the road, whereby it is stated that: '*This is a location in which one-off housing is rampant and these houses are dependent on private individual effluent treatment systems*'.

7.43. Flooding

7.44. The area of the site is designated as being within the *Shannon Upper and Lower River Basin Catchment*.

7.45. The observer to the appeal submits that this site is subject of flooding and has submitted photographic evidence of the land to the south, in the same field as the appeal site, under water. I can verify that the photograph taken appears to reflect the piece of land adjacent to the appeal site, given the background dwelling in the photograph, which is positioned directly across the road. I also note that a previous application (Planning Register Reference Number: 07 4455) on the adjacent site to the south, in the same field, was refused for the reason of flooding *inter alia*. Under that application, an inspection was carried out when the said land was flooded.

7.46. Regarding the actual appeal site, which is in the same field as the latter, there is no evidence to demonstrate that it has also flooded, and I note it has very slightly higher land levels than the adjacent site to the south. Therefore, a flood impact assessment would be useful in assessing this aspect of the application. It would appear that the seasonal high-water table is clearly higher than that, which has been represented under the Site Characterisation Assessment Report, of 2018, which is re-submitted under this application/appeal. I consider that given the possible issue of saturation of a treatment system and percolation area/polishing filter, is an important public health issue, there is insufficient information submitted under the application/appeal submissions, in order to assess this issue.

7.47. Siting and Design

7.48. The appellant argues that the planning report and reason for refusal refers to the term 'siting and design' and as there were no detailed plans and specifications of the proposed dwelling submitted under the Outline Planning application, that this is an error and is difficult to understand. I note that the application is publicly advertised as a two-storey dwelling and therefore the planning authority correctly considered this as a planning consideration and therefore the 'siting and design' of a two-storey dwelling at this location was considered. I also note that the planning authority was

also correct in its application of this term regarding the 'siting and design' of the proposed access/egress.

7.49. Under the second reason for refusal the appellant argues that the finished floor level cited under this refusal reason is inaccurate. I note that ground levels rise at the front (east) of the site and decrease moving towards the west of the site. The field within which the site is located rises again towards the west of the field, however this area is beyond the site boundary. Having reviewed the file/plans in detail I concur with the appellant in this instance. I would consider that the sentence in the second refusal reason, which refers to the ground level of the proposed dwelling being '*in excess of 4.5 metres above the adjoining road*', to be factually incorrect and I would assume that this amounts to a typing error. Notwithstanding this fact, without prejudice, it is acknowledged that there is an existing dwelling house positioned to the rear and southwest of the subject site at the end of an access lane and that and an appropriately scaled and sensitively designed dwelling house, would be an important aspect of the assessment of any dwelling on this site and within this spatial context, should outline planning permission be granted.

7.50. Appropriate Assessment

7.51. The location for the proposed development is remote from European sites. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the separation distance to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site within a Strong Rural Area Under Significant Urban Influence as designated in the Westmeath County Development Plan 2021-2027, to the expanse of one-off housing and the prevailing pattern of ribbon development in the general area, and to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities and the National Policy Objectives of the National Planning Framework, which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Westmeath County Development Plan and the Sustainable Rural Housing Guidelines for a house at this rural location and do not comply with National Policy Objectives. 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, would exacerbate the pattern of ribbon development, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, thus, be contrary to the provisions of the Westmeath County Development Plan as they relate to rural housing need and ribbon development, the Sustainable Rural Housing Guidelines for Planning Authorities and rural policy provisions of the National Planning Framework, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive density of development served by private effluent treatment systems in the area and would, therefore, be prejudicial to public health.

3. On the basis of the submissions made in connection with the planning application and the appeal, the board is not satisfied that effluent from the development can be satisfactorily treated and disposed of on site. The proposed development would, therefore, be prejudicial to public health.
4. 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 local road at a point where sightlines are restricted and in the absence of detailed drawings and specifications regarding access arrangements, the proposed development would be contrary to Objective CPO 16.33 of the Westmeath County Development Plan 2021 – 2027 and therefore, would be contrary to the proper planning and sustainable development of the area.

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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Aisling Dineen  
Planning Inspector  
15<sup>th</sup> February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	318153			
<b>Proposed Development Summary</b>	House and Septic Tank			
<b>Development Address</b>	Kilachonna, Moate, Co. Westmeath			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>		
		<b>No</b>	No further action required	
<b>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?</b>				
Yes		Class.....	EIA Mandatory EIAR required	
<b>No</b>			Proceed to Q.3	
<b>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]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
No		N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector: Aisling Dineen**

**Date: 15<sup>th</sup> February 2024**