



An  
Bord  
Pleanála

## Inspector's Report

**ABP 318405 - 23**

<b>Development</b>	Dwelling house, part two storey part single storey, garage, waste water treatment system, entrance, connection to local authority watermain and assoc. works.
<b>Location</b>	Plodstown, Mullingar, Co. Westmeath.
<b>Planning Authority</b>	Westmeath Co. Co.
<b>Planning Authority Reg. Ref.</b>	23 121
<b>Applicant(s)</b>	Barry Montgomery & Clementine Bund.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Barry Montgomery & Clementine Bund.
<b>Observer(s)</b>	None.

**Date of Site Inspection**

23<sup>rd</sup> January 2024

**Inspector**

Aisling Dineen

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

## **1.0 Site Location and Description**

- 1.1. The site is located c. 3 km from the centre of Mullingar town in the townland of Plodstown. It is positioned c. 500 metres east of the Newtown Roundabout, which is the junction between the subject local road; the L1132 and the N52. The N52 National Primary route connects to the N4, c. 2.5 km NE of the Newtown Roundabout.
- 1.2. The area is under development pressure and one-off ribbon development is a feature of the area, particularly to the west of the site.
- 1.3. The site is flat and is bounded on the front (North) and the west boundary by a hedgerow/ditchline. The south and east boundaries are not demarcated on the ground as they are contained within a large agricultural field.

## **2.0 Proposed Development**

- 2.1. It is proposed to construct a dwelling house and treatment system along with site access and associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority made a decision to refuse planning permission on the 11<sup>th</sup> October 2023, for the following reasons:

The proposed development would contribute to and exacerbate undesirable ribbon development, which elongates the pattern of the development at this location in the rural area. The proposed development would, accordingly, be contrary to policy CPO 9.15 of the Westmeath County Development Plan 2021 – 2027 and the proper planning and sustainable development of the area because it would seriously injure the amenities of the area and would militate against the preservation of the rural environment.

It is considered that the applicants have failed to demonstrate that the proposed development wastewater system can cater for the proposed PE for the safe

treatment and disposal of domestic effluent and therefore, the proposed development would be prejudicial to public health and 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**

- The site is situated 3 km SE of Mullingar town centre and is designated as a Rural Area under Strong Urban Influence.
- Applicants have submitted local housing needs questionnaire. They are presently renting in Mullingar and Barry is stated to be from Plodstown and is a local business man in Mullingar. The applicants are prospective purchasers.
- The applicant does comply with policy CPO 9.1 of the Westmeath County Development Plan 2021-2027.
- The site is 530 metres from the N52. There is an established pattern of ribbon development – linear residential development on this stretch of road with 9 dwellings situated on this side of the road. The site is the 7<sup>th</sup> house within 250 metres of road frontage with regard to Appendix 4 of the Sustainable Rural Housing Guidelines. The proposal is contrary to policy CPO 9.15, which seeks to control ribbon development.
- The proposed effluent treatment system is designed for a population equivalency of 6 people. Information submitted indicates that the proposed dwelling has 5 bedrooms and would accommodate 7 persons. The application documents have failed to demonstrate that the development can adequately dispose of waste.

#### **3.2.2. Other Technical Reports**

##### **District Engineers Report**

No objection subject to conditions.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

None.

## 4.0 **Planning History**

None for the appeal site.

## 5.0 **Policy Context**

### 5.1. **National Planning Framework**

National policy objective 19 of the NPF seeks to facilitate the provision of single houses in the countryside based on the core consideration of demonstration of economic or social need to live in a rural area and design criteria for rural housing.

### 5.2. **Development Plan**

#### **Westmeath County Development Plan 2021-2027**

##### 9.4 Rural Settlement Strategy

#### **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.

**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.

### **9.5.1 Rural Housing Site and Design**

Dwellings and structures in the countryside need to be sited and designed to impact minimally on their setting. The utilisation of existing features, natural and manmade, can assist in integrating new development into its established setting. All rural development will be expected to adhere to this basic principle. Design standards are outlined in Chapter 16 Development Management standards of the plan and supplementary planning guidance contained in the Westmeath Rural Design Guidelines (2005) or any revisions thereof. Furthermore, the Landscape Character Assessment prepared for the county assesses the sensitivity and capacity of the different character areas to absorb and facilitate rural residential development.

### **10.13.1 Wastewater Treatment and Disposal Serving Single Houses**

In un-serviced areas and outside the main towns and villages, the main method of sewage disposal is by means of individual septic tanks and proprietary systems. In order to protect human health and water quality from the risks posed by domestic wastewater treatment systems the EPA's National Inspection Plan for Domestic Waste Water Treatment Systems 2018-2021 now requires each local authority to develop a local site selection plan, which documents the application of the site selection methodology and outlines the justification for the selection of priority areas and individual sites.

### **10.13.2 EPA Code of Practice 2009 (updated to 2021)**

It shall be a policy of the Council to require that individual septic tank drainage systems be provided in accordance with the standards set out in this Code of Practice. The control of development in areas of high groundwater vulnerability is a priority for the Council. Where existing clusters of septic tanks in vulnerable areas are augmented with additional septic tanks, the risk of pollution increases significantly and therefore the protection of these areas is paramount.

## **5.3. Natural Heritage Designations**

The closest European sites are the Lough Ennell SPA (Site Code 004044) and SAC (Site Code 000685) are situated c. 5.5km SW of the site and Lough Owel SAC (Site Code 000688) and SPA (Site Code 004047), are situated c. 5.7 km NW 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**

- The site is well screened.
- The site is just 150 metres from the applicant Barry Montgomery's mother's home, which is where he grew up. This is adjacent to the applicant's father's home place and where his grandparents lived.
- The proposed dwelling would only be the 4<sup>th</sup> house along 250 metres of road frontage and is within the local authority's own guidance on ribbon development.
- The two fields to the North of Plodstown House are unsuitable for development as they would not achieve the required sight lines or accommodate percolation areas to the required standards.
- A letter from the engineer who carried out percolation tests is attached and this demonstrates that the proposal can in fact accommodate up to 10 persons.
- The applicants currently rent a small 3 bed house in Mullingar, which is not suitable for a family of 7 and there is no security of tenure. If they were asked to vacate their house, they would have to register on the Council waiting list or become homeless and forced into emergency accommodation.

- Regarding the 2<sup>nd</sup> reason for refusal a report is submitted under the appeal that conveys that the proposed treatment system was in fact ‘over designed’ in that given the P and T tests were 24 and 20, a standard septic tank would have been sufficient. However, a treatment system was proposed. The tank can be upsized to a PE of 10 people and there is no requirement to change the tertiary bed.

## **6.2. Applicant Response**

The applicant is the appellant.

## **6.3. Planning Authority Response**

None.

## **6.4. Observations**

None.

## **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
- Waste Water Treatment
- Traffic Safety
- Siting and Design

- 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 Mullingar and is under pressure for one off housing due to proximity to such routes as the N4 Corridor in addition to the N52 National Route. It is noted that a junction on the N52 is situated c. 500 metres west of the site.
- 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. 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, is within the Mullingar hinterland and 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. It is considered that the number of dwelling houses serviced by

individual waste water treatment systems in the area is excessive and I would have concerns regarding pollution and general sustainability in the area.

- 7.8. One of the applicants Barry Montgomery makes the case that he is from the area and that he grew up in the area and that his mothers' and brothers' houses are proximate to the site. The applicant is stated to be currently renting in Mullingar. The applicant is a prospective purchaser of the site and wishes to build a family home. It is also stated that Barry Montgomery attended St. Mary's Secondary School in Mullingar.
- 7.9. There is no demonstrable evidence on file to verify that the applicant grew up in this area. An Eircode number is cited under documents lodged, which is stated to be the applicants' mothers house, however there is no official or verifiable documents on file, such as land registry details/title documents or any other demonstrable details of verifiable stated links with the area, which would support the applicants' stated links to the area and any length of time, for which such links exist.
- 7.10. There is also a site location map submitted relating to lands in the ownership of the vendor/owner of the appeal site in question, which demonstrates with blue marker the land holding, which the current appeal site is taken from. It is stated that there is no land registry folio for this landholding but a solicitors' letter supports the map submitted. As the subject site is proposed to be purchased from a landowner in the area, this information does not verify any links or connections on behalf of the applicants.
- 7.11. It is noted that the planning authority accepted the *bone fides* of the applicant's links with the area and considered that the applicant satisfied the criteria stated under CPO 9.1 of the Westmeath County Development Plan 2021-2027. However, based on the documentation submitted and lack of clear demonstrable details submitted regarding the applicants' stated links with the area, I do not consider that compliance with CPO 9.1 of the development plan has been sufficiently demonstrated.
- 7.12. With regard to the NPF and National Policy Objective No 19, which necessitates applicants to have '*demonstrable economic or social need to live in a rural area*', the applicants submit that as they live and work in Mullingar, the applicants' mother, stated to be from the area, has to travel to and from Mullingar for babysitting

purposes. It is not considered that this case, is a sufficient or demonstrable economic or social need to build a house and live in this un-serviced rural.

- 7.13. Under the first reason for refusal the planning authority stated that the proposed development would 'contribute to and exacerbate undesirable ribbon development, which elongates that pattern of development in the rural area' and would therefore be contrary to policy CPO 9.15 of the plan. The planners report states that the proposed dwelling would comprise the 7<sup>th</sup> dwelling within a stretch of 250 metres of road frontage and it also notes that the entire linear development at this location extends to 9 No houses. The agent for the appellant under the appeal submission states that the applicants contend that the proposed dwelling would only be the 4<sup>th</sup> house within a stretch of 250 metres of road frontage.
- 7.14. Having inspected the site area and reviewed the file in detail, I am of the viewpoint that the proposed site would be the 6<sup>th</sup> dwelling house within 250 metres of road frontage. Accordingly, I have concerns regarding the over-concentration and agglomeration of septic tanks/treatment systems in this un-serviced rural area and the threat of pollution, given this unsustainable pattern of development. Therefore, I concur with the planning authority in this instance, in that the proposed development would be contrary to CPO 9.15 of the plan, which aims *to control ribbon development, particularly on approach roads into the county's regional centre, key town, self-sustaining growth towns and self-sustaining towns* and accordingly I recommend a refusal on this ground.
- 7.15. Waste Water Treatment
- 7.16. Under the second reason for refusal the planning authority stated that the applicant failed to demonstrate that the proposed development of a wastewater system could cater for the proposed PE (population equivalency) for the safe treatment and disposal of domestic effluent. Technically, the planning authority were correct in this assessment as conflicting information was submitted under the application, in that the Site Characterisation Assessment report was based on a PE of 6 people and the actual proposed occupancy is for 7 persons within a five-bedroom dwelling house.
- 7.17. Under the appeal submission however an engineer's report submits that the system proposed was in fact over designed and that based on the P and T tests carried out, a standard septic tank would have been sufficient, but that a treatment system was

proposed. This report submits that the tank can be upsized to a PE of 10 people and that there is no requirement to change the tertiary bed.

- 7.18. I note that the water table was encountered at a depth of 1.2 metres and a GWPR (Ground Water Protection Response) of R 1 was concluded. As per table 6.3 and 6.4 of the CoP, percolation trenches and intermittent soil filters following septic tanks are acceptable at this level of unsaturated soils. Therefore, the submission to the appeal in this respect is technically correct and acceptable, in that a septic tank would have been sufficient but a treatment system was proposed. Therefore, clarity on this issue and other relevant waste water issues, could have been requested by the planning authority under further information request. However, I consider that it is reasonable that the planning authority did not pursue this issue under a further information request, in light of the substantive reason for refusal, as discussed above. In this regard, I note para 5.7 of the Development Management Guidelines (updated, Dec 2020), which refers that *Requests for further information under Article 33 on one aspect of a proposal should not be sought where there is a fundamental objection to the proposed development on other grounds; applicants should not have to suffer unnecessary delay or expense if a refusal is likely.*
- 7.19. In addition to the discrepancy regarding the proposed PE, I also note the lack of sufficient detail, in terms of a site-specific section profile of the proposed system on the appeal site. The CoP specifically states under para 6.6 that *the type, location and installation requirements for each system should be very clearly set out in the report, highlighting the importance of site levels and the integration of finished floor levels with the site assessment and cross-sections showing drainage falls, soil depth below pipe inverts, etc. In all cases additional attention should be given to providing cross-sections indicating invert levels of pipework etc.* I am of the viewpoint that this level of detail is absent from the application and appeal documentation. I do not consider that a section of the system portrayed in the manufacturers brochure, adheres to the stated site-specific requirements.
- 7.20. With regard to the above and in the context of the pollution threat given the number of one-off houses, on this stretch of road extending west from the appeal site, I consider that based on the information provided, that the proposal has not demonstrated compliance with the CoP and therefore I concur with the planning authority and I recommend a refusal on this ground also.

#### 7.21. Traffic Safety

7.22. The site is situated on a relatively straight stretch of local road. It appears that the required sight distances are achievable at the proposed entry/egress point on the site. It is noted that the District Engineer had no objection to the proposed development subject to conditions.

#### 7.23. Siting and Design

7.24. Aside from the obvious impacts on visual amenities of the area, resulting from the ribbonised pattern of development in this rural area, the specific vernacular design of the proposed dwelling house, in concept form, layout, material and building line, is generally acceptable.

#### 7.25. Appropriate Assessment

7.26. Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any 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.

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  
20<sup>th</sup> February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	318405 -23		
<b>Proposed Development Summary</b>	House and WWTS		
<b>Development Address</b>	Plodstown, Mullingar, 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>			
<b>Yes</b>		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>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		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: 20/02/24**