



An
Bord
Pleanála

Inspector's Report

ABP-318483-23

Development	Two number semi-detached dwelling houses and all associated site works
Location	Site no. 26, Cluain na Spideoga, Cloghan, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	2388
Applicants	Dermot & Declan O'Rourke.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Jonathan Kenny & Sinead Mullen.
Date of Site Inspection	3 rd June 2024
Inspector	Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located at Site no. 26, Cluain na Spideoga, Cloghan, Co. Offaly, along the R356, Banagher Street, close to the centre of the village.
- 1.1.2. The site is part of a residential development of recent origin. In this part of the development an access road fronts the regional road and one detached house has been developed, with undeveloped land remaining to either side. The subject site is to the north east of the existing dwelling and fronts onto the turning head of the already constructed access road. The existing dwelling has a single storey garage to the side adjoining the subject site. The residential development at Cluain na Spideoga continues to the rear. Boundary walls are in place around the site.
- 1.1.3. Older, bungalow style development adjoins to the north east, with a generous side garden adjoining the site. On the opposite side of the road there is a single detached two storey dwelling, with direct access to the regional road and a scheme of single storey, semi-detached dwellings in a crescent shape fronted by a green, Graysmeadow.
- 1.1.4. The site is given as 0.04ha.

2.0 Proposed Development

- 2.1.1. The proposed development, as described in the public notices, comprises: two number semi-detached dwelling houses and all associated site works.
- 2.1.2. The block is 13.024m wide, 9.162m high and has slight gable projections at either end, where the proposed front entrances are located. In the side elevations, there is a secondary access and a first floor landing window.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority (PA) decided to grant permission subject to 13 conditions, including:
1 compliance

- 2 finished floor levels
- 3 finishes
- 4 boundary treatment
- 5 landscaping
- 6 development works
- 7 surface water
- 8 Uisce Éireann agreements
- 9 Construction Noise
- 10 undergrounding of cables
- 11 completion of roads
- 12 bond
- 13 development charge

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. There are two planning reports on the file, the first recommending a request for further information, which issued, includes:

- Generally satisfied with compliance with development plan.
- FI on 8 points.

3.2.3. Other Technical Reports

3.2.4. Water Services – 14/04/23, further information.

3.2.5. Area Engineer – 12/04/23:

Surface water shall be piped to the public storm-water system.

No excavation on the public footpath or public road without a valid road opening licence.

Liaise with Birr Municipal district of IW re surface water and water mains and foul sewer connections.

3.3. **Third Party Observations**

3.3.1. Third party observations on the file have been read and noted.

3.4. **Further Information**

3.5. Further Information Request

3.5.1. A further information request issued 26/4/2023 on 8 items:

1 streetscape elevation.

2 development plan standards.

3 existing site layout with distances to site boundaries.

4 stone cladding is not in keeping with the character of existing dwellings.

5 numbering.

6 Uisce Éireann.

7 surface water.

8 respond to third party observations.

3.6. Further Information Response

3.6.1. A response to the further information request was received 4/10/2023, including

- Response letter.
- Site layout with dimensions.
- Streetscape elevation and revised front elevation showing a napp plaster finish,

3.7. Further Reports

3.7.1. Water Services – 27/10/23, conditions.

3.7.2. Planning report - 27/10/23, recommending permission, which issued, includes:

- Generally satisfied with responses.

4.0 Planning History

07/1776 permission for change of house type, sites 37-40 and 43-48 from four bedroom to three bedroom, previously granted 06/1071; granted.

06/1071 permission for the construction of 44 dwellings as phase 2 of housing estate granted under ref 2/00/1316, including the construction of a new entrance onto the Birr road to accommodate 12 of these proposed dwellings; granted.

06/525 permission for change of house type on sites 15, 16, 21 & 22 from 2 bedroom 2 storey semi-detached to 2 bedroom dormer bungalow, previously granted 2/00/13161; granted.

06/31 permission for change of house type no 17-20 from 2 bedroom bungalow to 3 bedroom dormer bungalow with extension to rear, on sites 13 & 14, previously granted 2/00/13161; granted.

06/30 permission for the construction of 8 dwellings as phase 1 of housing estate; granted.

00/13161 permission for the construction of 22 dwellings; granted.

UD09049 warning letter non compliance with conditions.

5.0 Policy Context

5.1. Development Plan

5.2. The Offaly County Development Plan 2021-2027 is the operative plan. Relevant provisions include:

Cloghan Village Plan, zoned existing residential

LUZO-03 - Protect and enhance the amenity and character of developed residential communities.

Existing residential - this zoning allows for the conservation and enhancement of the quality and character of existing residential areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the area. Existing residential zoned land may also

provide for small scale home based employment uses where the primary residential use will be maintained

Cloghan Village Plan SO11 To protect groundwater resources within the Source Protection Zone (per map, there is no zone in the vicinity of the settlement).

DMS-13 Separation Distances/Overlooking A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall be observed but may be relaxed in village and town centre locations where high quality design is achieved and where alternative provision has been designed to ensure privacy.

DMS-14 Space around Buildings - a minimum distance of 2.5m for single storey, and 3m for two-storey buildings will be required to be maintained between the side walls of adjacent dwellings or dwelling blocks with each building having a minimum of 1 metre to the boundary. This standard may be relaxed where the dwelling incorporates a single storey structure to the side.

DMS-15 Side Windows - Generally, windows in the gable/side walls of dwellings will not be permitted where the windows would closely overlook the curtilage of an adjoining dwelling. Ground floor gable/side windows which are more than 6 metres from a properly screened common boundary may be permitted.

5.3. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities

- 5.3.1. The guidelines issued 12th January 2024 set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. The guidelines promote an alternative 'mid-rise medium density housing' with more compact 'own-door' housing offering a broader range of housing options' and 'addressing viability constraints'.

To enable greater innovation, a graduated and flexible approach to the application of residential development standards is required across all housing types. In particular, it is necessary to review and update standards in statutory development plans in relation to separation between dwellings, private, semi-private and public open space provision, car parking and cycle parking

SPPR 1 – It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.

In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.

SPPR 2 - refers to minimum private open space standards for houses: 1 bed house 20 sq.m, 2 bed house 30 sq.m, 3 bed house 40 sq.m and 4 bed + house 50 sq.m.

SPPR 3 - refers to minimising car parking. In intermediate and peripheral locations, the maximum rate of car parking provision, shall be 2 no. spaces per dwelling.

SPPR 4 - refers to cycle parking and storage. It is a specific planning policy requirement of the Guidelines that all new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors.

Daylight - The potential for poor daylight performance in a proposed development or for a material impact on neighbouring properties will generally arise in cases where the buildings are close together, where higher buildings are involved, or where there are other obstructions to daylight. Planning authorities do not need to undertake a

detailed technical assessment in relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard.

Separation distances should be determined based on considerations of privacy and amenity, informed by the layout, design and site characteristics of the specific proposed development.

A separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces

5.4. Natural Heritage Designations

- 5.4.1. The nearest Natura sites are Moyclare Bog SAC (site code 000581) c4.25 km straight line distance to north and Middle Shannon Callows SPA (site code 004096) and River Shannon Callows SAC (site code 000216) c4 km straight line distance to west.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal has been submitted by Jonathan Kenny & Sinead Mullen.
- 6.1.2. The grounds include:
- Permission (06/30) was granted for 8 dwellings 5 of which have been developed.
 - They bought their house in a low density area.

- The proposed semi-detached dwellings will negatively affect the value of their house
- It will set a precedent for similar on the 2 sites located to the south west of their dwelling. Making 11 dwellings only 5 of which would be detached.
- Traffic associated with the increase in this cul de sac.
- Relaxation of the 22m separation to 17m. Re. - relaxation of DMS 13, this location is not a village centre.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority has responded to the grounds of appeal referring the Board to the technical reports on file and requesting the Board to support its decision.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, density, DMS 13 and overlooking, traffic and devaluation of property and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment / AA Screening

- 7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.
- 7.2.2. Appendix 2 to this report details my assessment under this heading.
- 7.2.3. There is no likelihood of impact on any Natura site.

7.3. Density

- 7.3.1. It is stated in the grounds of appeal that this was a low density area and the proposed semi-detached dwellings will negatively affect the value of the appellant's

house, and will set a precedent for similar development on the 2 sites located to the south west of their dwelling.

7.3.2. The site is given as 0.04ha in area, this is exclusive of the road to the front which it would be necessary to include within the site for density calculations. The densities set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities include for Small / Medium Town Edge sites where development in the range of 25-40 dph net is to be generally applied. For smaller settlements of 1,500 persons or less no density is prescribed rather development in rural towns and villages should be tailored to the scale, form and character of the settlement and the capacity of services and infrastructure. The site is given as 14.858m wide at the front (widening to 16.839m at the back) x 28.773m length (28.856m on the opposite side), if taken together with a portion of the road (say 5m x 15m) a density of c28 per ha would be derived.

7.3.3. I am satisfied that the density proposed is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure, and is not excessive.

7.4. **DMS 13 and Overlooking**

7.4.1. The grounds of appeal refers to the relaxation of the 22m separation to 17m at a location which is not a village centre.

DMS 13 is a development management standard which states

Separation Distances/Overlooking

A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall be observed but may be relaxed in village and town centre locations where high quality design is achieved and where alternative provision has been designed to ensure privacy.

7.4.2. The site layouts in the various iterations of the proposed development at this location indicate back to back separation provision of varying distances (06/1071 (22m), 07/1776 (22m), 06/525 (19m), 06/31 (19.5m) and 06/30 (30m)), which do not all achieve the 22m development management standard.

7.4.3. The back to back distance for the two storey areas on the layout is indicated as 18.5m; 8.798m being the distance being provided within the subject site. The

proposed development does not exceed the depth of existing adjoining dwelling. The layout of the development is already established. The development plan allows for flexibility in the interpretation of the standard in DMS 13. The site is located in a village, where the village centre is not defined. In my opinion the proposed development does not materially contravene the plan.

7.4.4. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities in SPPR 1 sets out a specific planning policy requirement that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres. This requirement will guide future development plans.

7.4.5. I am satisfied that the separation distances between opposing first floor windows is acceptable and will ensure the privacy of existing and future residents.

7.5. **Traffic**

7.5.1. The grounds of appeal states concern at the increase in traffic which would be generated by the additional house. I am satisfied that the increase in traffic would be minimal and that the existing service road is capable of accommodating the additional traffic.

7.6. **Devaluation of Property**

7.6.1. The grounds of appeal states concern that the proposed semi-detached dwellings will negatively affect the value of their (adjoining) house and further that it will set a precedent for similar houses on the 2 sites located to the south west of their dwelling, making 11 dwellings only 5 of which would be detached.

7.6.2. To the rear there are four detached houses. A similar development to the existing detached house appears to have been intended on this site. Two further detached houses may be intended on the remaining undeveloped land to the south west of the existing adjoining house. The appellant's concern regarding precedent refers to these sites. To the south the development comprises semi-detached houses on a service road, facing Banagher Street. To the east and south east there is a mixture of own door house types.

- 7.6.3. The proposed development will be of similar proportions to the existing dwelling. No evidence has been presented to support the appellant's concern that the proposed development will negatively affect the value of their house. The existing development at Cluain na Spideoga comprises a mixture of detached, semi-detached and terraced, two storey and single storey housing. I do not consider that the proposed dwellings will impact on the amenities of the area or the value of property in the area.
- 7.6.4. In my opinion devaluation of property should not be a reason to refuse or modify the proposed development.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The proposed housing development on serviced, zoned, land in the village of Cloghan accords with the provisions of the Offaly County Development Plan 2021-2027, would not detract from the amenities of existing residential properties or of the area, would provide future occupants with adequate residential amenities and would accordingly be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 4th day of October 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2 Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The proposed palisade fence shall be replaced with a 1.8m high concrete block wall, capped and plastered. The landing windows shall be glazed in obscured glass.

Reason: In the interest of visual and residential amenity.

3 Prior to commencement of development, the developer shall enter into water and waste water connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

4 Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5 All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure with the proposed development.

Reason: In the interests of public safety and residential amenity.

6 The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Recommendations for Site Development Works for Housing Areas” issued by the Department of the Environment and Local

Government in November 1998]. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

7 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction waste.

Reason: In the interests of public safety and residential amenity.

8 Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The security to be lodged shall be as follows -

(a) an approved insurance company bond in the sum of € 10,000 (ten thousand euro), or

(b) a cash sum of €10,000 (ten thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or

(c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

9 The developer shall pay to the planning authority a financial contribution of €6,020 (six thousand and twenty euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission..

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.

Planning Inspector

27th August 2024

Appendices

Appendix 1 EIA screening

Appendix 2 AA screening

Appendix 3 Photographs

Appendix 4 Offaly Development Plan 2021 – 2027 extracts.

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

An Bord Pleanála Case Reference	318483		
Proposed Development Summary	Two semi-detached dwelling houses and all associated site works		
Development Address	Cluain na Spideoga, Cloghan, Co. Offaly		
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	/
		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		Class.....	EIA Mandatory EIAR required
No	/		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		N/A	No EIAR or Preliminary Examination required
Yes	/	10 (b)(i)Construction of more than 500 dwelling units.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	/	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA - Preliminary Examination

An Bord Pleanála Case Reference	318483	
Development Summary	Two semi-detached dwelling houses and all associated site works	
Examination		
		Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?		No
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?		No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?		No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?		No
Conclusion		
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment?		
There is no real likelihood of significant effects on the environment	EIAR not required	Yes
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No

	Sch 7A information submitted?		No
There is a real likelihood of significant effects on the environment	EIAR is required	No	

Inspector: _____

Date: _____

Appendix 2

Template 1: Screening the need for Appropriate Assessment Screening Determination

I have considered the project two number semi-detached dwelling houses and all associated site works, in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located Cluain na Spideoga, Cloghan, Co. Offaly.

The proposed development comprises two number semi-detached dwelling houses and all associated site works

No nature conservation concerns were raised in the planning appeal.

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 [insert as relevant:

- Nature of works - small scale and nature of the development
- Location-distance from nearest European site and lack of connections
- Taking into account screening report/determination by LPA [if applicable]

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.