



An
Bord
Pleanála

Inspector's Report

ABP-318493-23

Development

Change of use from residential to community education use, consisting of 3 classrooms and ancillary facilities, replacement of septic tank and all associated site works.

Location

Barry, Keenagh, Co. Longford.

Planning Authority

Longford County Council

Planning Authority Reg. Ref.

2360130

Applicants

Midhe Democratic School CLG

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellants

James Jordan

Jerry and Noleen Doyle

David Jordan

Date of Site Inspection

15th March 2024

Inspector

Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located at Barry, Keenagh, Co. Longford. Barry is a small village, north of Ballymahon, made up of a single street which runs in a northeast/southwest direction, bounded each side by two storey buildings along the inner edge of a wide footpath, and closed off at either end by right angle bends on the primary local road, L1125, which runs through the village. Barry is an un-serviced village, with a mains water supply but no wastewater collection system.
- 1.1.2. The village is lacking in vitality. Some buildings appear to have been improved recently but others are currently disused and some are in a poor state of repair. The subject site is at the south-eastern end of the street. It is occupied by a disused two storey building with a single storey side portion which has been used as a dwelling and small shop (single storey), with outbuildings to rear. The front porch of the building is set behind a low wall enclosed front garden, facing the street. The building is served by an existing septic tank system. The vehicular access is from a secondary local road which bounds the south of the site. To the east and south-east are lands in pasture. A dwelling and its rear garden adjoin to the north. A chain link fence also forms part of the boundary with the adjoining dwelling.
- 1.1.3. On the date of inspection, after prolonged rain, the site was dry.
- 1.1.4. The site is given as 0.14 ha.

2.0 Proposed Development

- 2.1.1. The proposed development is described as:

change of use of existing residential dwelling (and vacant village store) (G.F.A. 167.8 sq. m./1806.2 sq. ft.) to community education use, consisting of 3 no. classrooms and ancillary facilities. The change of use will entail essential repairs, internal alterations, replacement of the existing septic tank with a proprietary treatment system and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission subject to 11 conditions, including:

2 a) set down areas to be agreed.

b) road opening license.

c) public road not to be affected

d) any damage the liability of the applicant.

4 a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021

b) Treated effluent from the treatment system shall be discharged to a percolation area which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

5) Prior to commencement ecology survey.

6) Parking to be provided in accordance with Longford County Development Plan.

7) Prior to commencement asbestos survey.

11) 5 % (minimum) of the proposed car parking spaces to be provided with electrical connection points.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning report recommending permission includes:

The proposed development is located within the development envelope for Barry, the use of the lands in question is in accordance with the current zoning as identified in the Longford County Development Plan 2021-2027, and therefore with the proper and sustainable development of the area.

3.2.3. Other Technical Reports

Road Design

1 Prior to commencement, the applicant shall agree the exact location of the proposed set down area with the Area Engineer.

2. The applicant shall apply to Longford County Council (Roads Section) for a road opening license for any road works or service connections on existing public roads.

3. The public road shall not be adversely affected by the works with regard to pavement, obstructions, road operation, verges or drainage.

4. Any damage to the public road as a result of the works shall be the liability of the Applicant.

3.3. Third Party Observations

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

4.0 Planning History

A pre-planning meeting was held on 11/05/2023.

No other planning history is given.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Longford County Development Plan 2021-2027 is the operative plan, relevant provisions include:

Key Principles

Support the strengthening of the town and village network and rural communities throughout the county in accordance with the hierarchy outlined. Create vibrant and thriving urban and rural communities, underpinned in the principles of sustainability and the development of environments which retain and foster a high quality of life. Support and facilitate the transition towards a low carbon society. Align future development with existing and planned investment in infrastructure within settlements.

Barry is defined in Table 4.13: Settlement Hierarchy, as a 'Rural Settlement Cluster'; these are unserviced settlements.

CPO 4.21 Consider proposals for development in Rural Settlement Clusters in respect of their scale, their locations within the settlement context, their visual harmony with the built environment of the subject settlement, including their ability to consolidate and enhance existing settlement character. Only small-scale residential developments (maximum of 4 no. residential units in one individual proposal) and limited local-level services, such as neighbourhood shops and schools etc., shall be considered in these settlements.

A key feature of any sustainable community is the level of integration of appropriate transportation infrastructure with effective land use planning. Land use planning has a distinct influence on travel behaviour.

Climate Action Plan 2019 This plan sets out the Government's plan of action in relation to combatting Climate Change and its impacts includes among five key goals to make growth less transport intensive through better planning, remote and home-working and modal shift to public transport.

5.2. Natural Heritage Designations

- 5.2.1. The Natura sites nearest the site are Lough Ree SPA (site code 004064) and Lough Ree SAC (site code 000440), c7km straight line distance from the subject site, (to the south-west).

5.3. EIA Screening

- 5.3.1. The proposed development is not of a class of development in Schedule 5, Parts 1 and 2. EIA screening is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal has been submitted on behalf of James Jordan, the grounds include -
- The village is subject to heavy traffic as it is used to by-pass traffic jams in Ballymahon.
 - The proposed development will have a traffic impact.
 - It is at a dangerous staggered crossroads.
 - The traffic projections are flawed.
 - The wastewater treatment studies have anomalies.
 - The capacity is described as 4 residents.
 - The site description notes a well upstream but it is not shown and no cordon sanitaire provided. Distances from watercourses, boundaries and other septic tanks are not stated.
 - The T value is stated to be 55 minutes. The three values: 16.92, 15.33 and 22.25 give an average 'T' of 18.17 for a 25mm drop.
 - Arising from the test and the confirmed high water table a P test is undertaken. A 13m x 9m (or 120 sq m) bed is proposed.
 - The study is deficient.

- The required clearances from boundaries, watercourses, boundaries and car parking areas are listed in table E2. It is admitted that there is a well 20m away. Minimum clearances are not achieved or achievable.
- The EPA Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), should not be used. It is for a population not exceeding 10 residents. This scheme has 45 students and 5 staff.
- Para 3.4 required the identification of adjacent houses, watercourses and septic tanks. None of these have been shown.
- The study correctly identifies the lands as highly vulnerable.
- The clearances to the boundaries are only 3.5m and 3.7m.
- The proposed 120 sq m percolation bed is only suitable for a house. Even the percolation values at pp 25 and 31 of the EPA CoP render the site unsuitable for a house.
- The volume of waters discharging cannot soak away.

6.1.2. A third party appeal has been submitted by Jerry and Noleen Doyle, the grounds include -

- Devaluation of their dwelling
- Loss of privacy. The boundary line runs at an angle behind their property, with only a chainlink fence separating the two properties. The privacy of the back of their home will be diminished.
- The set-down / pick-up area near the T junction is unsafe.
- There are shallow wells in the area.
- They have had problems with their septic tank because of high water table and have their percolation area situated at the top of their garden with a pump sump fitted.
- They are concerned at the change of use with regard to the percolation. Their property is at a higher level and is wet. They fail to see how soakage can be provided.
- The water vein appears to be in a straight line through all the yards.

- The map is incorrect in stating that there is a mature hedge surrounding the property. There is an old overgrown apple tree about 6 ft from the boundary. The septic tank is under this tree.
- No recreational area is available. The site is too small.

6.1.3. A third party appeal has been submitted by David Jordan, the grounds include -

- Traffic safety – only 5m from a T junction; a busy junction.
- Health Hazard/Environmental Risks
 - High water table – increased load of waste-water.
 - There is a river 97m to SW.
 - Photos of ponding in his garden to the west are provided.
 - He states that illegal work was carried out. This refers to removal of an asbestos roof.

6.2. **Applicant Response**

6.2.1. The applicant has responded to the grounds of appeal. The response includes:

- The site is located in a village at the junction of two roads. It is occupied by a two storey dwelling with a single storey wing which was formerly a shop
- The road is lightly trafficked and has a generous footpath.
- There is a set-down area at the front.
- There is a recognised demand in the catchment area Longford Westmeath for this school.
- The county development plan is referenced.
- Re. impact on privacy and devaluation – schools and residential uses co-exist countrywide. No evidence of devaluation is given.
- Traffic and road safety – the proposal cannot be conflated with traffic concerns elsewhere. It will not be a significant traffic generator. 6/7 two way trips per day. Not more than generated by Barry Stores in the past. Longford County Council were satisfied.

- Wastewater treatment and capacity – a comprehensive response from the site assessor is attached. It has been designed in accordance with EPA standards. The size of the percolation area and the manner of treatment are based on the site characterisation and the estimated loading. Longford County Council were satisfied.
- Recreation area for future students – given the size of the site, 0.5ac, and the number of pupils, they are satisfied that there will be ample space for recreation. The school will not have formal break times so the concentration of students outside at any one time differs from a traditional school.
- Regarding alleged unauthorised works, the Board has no function.
- The Site Assessor report includes:
- The code of practice is the same test for a PE of less than 10 and greater than 10. The same method is used. Surface and subsurface tests were carried out. The loading rates are taken from Commercial, Industrial and Leisure premises (wastewater loading rates) and based on the results, the percolation area is designed.
- The figures were sent to Molloy's and they confirm 120sq m is adequate.
- There is an old well on the site. Page 28 of the manual states a well upstream must be at least 15m away. They have 20m. The old septic tank is being replaced.
- Not referred to as a house.
- 3m distance to the boundary is achieved.

6.3. Planning Authority Response

No response.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are as follows: appropriate assessment, the principle of the development, wastewater, residential

amenity, traffic safety, site size and other issues and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.3. Principle of the Development

- 7.3.1. Barry is classified in the Longford County Development Plan 2021-2027 as a Rural Settlement Cluster. The development plan provides for limited local-level services, such as neighbourhood shops and schools, in Rural Settlement Clusters.
- 7.3.2. It is stated in support of this application that the proposed development will serve the Longford Westmeath catchment. A school for 45 pupils for two counties indicates a very dispersed catchment, not a limited local-level service.
- 7.3.3. The proposed development provides an alternative education model to the mainstream provision currently available.
- 7.3.4. The proposed development will generate traffic movements well in excess of those required to provide pupils with an education at the school nearest to their home, even if some or all of the journey is by private bus.
- 7.3.5. The right¹ of parents to choose the type of education they want for their children needs to be balanced against the Climate Change implications of providing for this choice.
- 7.3.6. On balance, and taking account of the small size of the proposed school, I consider that the proposed development is acceptable in principle.

¹ The State must respect the right of parents to provide for the religious, moral, intellectual, physical and social education of their children. The State cannot oblige a parent to send their children to school or to any particular type of school but it may require that children receive a certain minimum education. Source: Citizens Information website.

7.4. Wastewater

- 7.4.1. Both appeals refer to concerns regarding wastewater disposal. There are concerns regarding the suitability of the ground for the disposal of wastewater, the proximity to boundaries and wells; and there is reference to problems with existing septic tanks. It is stated that the EPA Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) referred to in condition 4 of the decision, is for domestic wastewater. It is pointed out that the proposed development is not a dwelling nor is it for a (Population Equivalent) PE not exceeding 10 residents.
- 7.4.2. The trial pit results, state the ground water level as 0.9m below ground level but also ingress of water at c0.7m below ground level.
- 7.4.3. Due to the high water table level the applicant proposes to provide a proprietary effluent treatment system: a SBR (sequencing batch reactor) followed by a raised polishing filter.
- 7.4.4. The design of the system is based on the percolation test results and the projected loading is based on the guidance document 'Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (PE 10-500) EPA 04/99/500'
- 7.5. The PE of 15 used in the design is potentially in excess of that required for a non-residential school with no canteen. No cooking facilities are indicated in the proposals.
- 7.5.1. In the Groundwater Protection Response Matrix for Single House Systems, the R2¹ response for a locally important aquifer of high vulnerability is:
- R2¹ Acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Section 6 are met and that the likelihood of microbial pollution is minimised.'
- 7.5.2. The foregoing reference to Section 6, is to paragraph 6.4 of the EPA CoP: Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10). This requires that a minimum unsaturated soil and or subsoil depth of 0.9m is provided.
- 7.5.3. There are recommended minimum distances in the CoP, such as to boundaries (min 3m), and up-gradient domestic well (min 15m); all are provided for in the proposed layout.

- 7.5.4. In my opinion, subject to the invert level of the polishing filter being at least 200mm above the existing ground level, to maintain vertical separation from the water ingress at 0.7m below ground level, the proposed wastewater system is acceptable.

7.6. Residential Amenity

- 7.6.1. The grounds of appeal refers to loss of privacy at the back of the adjoining residence where the bedroom windows will be overlooked, and that only a chainlink fence separates the two properties, with the boundary running at an angle behind the adjoining property.
- 7.6.2. The use of the area to the rear of the proposed school will be at ground level only and therefore any overlooking of the adjoining property, can be dealt with by a screen fence. The existing boundary running from the rear of the building (former shop) to the end of the angled portion, is a c 2m high block wall, plastered and capped; beyond that is a section of high timber fence; and the remainder of the boundary is a chainlink fence.
- 7.6.3. In my opinion the provision of a durable screen fence, extending from the end of the block wall to the end of the northern boundary, would be a reasonable requirement and would provide a reasonable level of privacy to the adjoining property. Oblique views of the eastern end of the long rear garden adjoining would be available across the adjoining field from the rear of the subject site.
- 7.6.4. The grounds of appeal refers to devaluation of dwelling. The applicant's response states that no evidence of devaluation is given and points out that schools and residential uses co-exist countrywide.
- 7.6.5. In my opinion the re-use of this currently disused building, one of several in the village, will enhance the village. There is nothing to indicate that there will be an adverse impact on property values.
- 7.6.6. Impact on residential amenity or property values should not be reasons to refuse the proposed development.

7.7. Traffic Safety

- 7.7.1. Both appeals refer to concerns regarding traffic safety. It is stated that the village is subject to heavy traffic as it is used by traffic by-passing Ballymahon; that the proposed development will have a traffic impact; and that the site is at a dangerous staggered crossroads.
- 7.7.2. The applicant's response states that the road is lightly trafficked, has a generous footpath, there is a set-down area at the front, it will not be a significant traffic generator, generates no more traffic than generated by Barry Stores in the past ,and that traffic concerns elsewhere do not relate to the proposal. They point out that Longford County Council were satisfied.
- 7.7.3. The site is in an existing settlement where a restricted speed limit applies (50km/hr) and traffic speed is restricted by the road configuration: the acute bend/junction at the southern end of the village and the similar acute bend at the northern end. The proposed development will not generate significant traffic volumes. The report of the Road Design section, which raises no objection to the proposal is noted. Traffic safety should not be reasons to refuse the proposed development.

7.8. Site Size

- 7.8.1. The grounds of appeal states that the site is too small, and that no recreational area is available.
- 7.8.2. The applicant's response states regarding that given the size of the site, 0.5ac, and the number of pupils, they are satisfied that there will be ample space for recreation. The school will not have formal break times so the concentration of students outside at any one time differs from a traditional school.
- 7.8.3. I am satisfied that the site size is adequate for the limited number of pupils proposed. If the school were to grow, Midhe Democratic School CLG would need to consider alternatives.

7.9. Other Issues

- 7.9.1. It is stated that asbestos roofing was removed from the site in an improper manner.

7.9.2. The applicant response is that regarding alleged unauthorised works, the Board has no function.

7.9.3. This matter is outside the Board's remit.

8.0 Recommendation

8.1.1. In accordance with the foregoing I recommend that the proposed development be permitted, for the following reasons and considerations, in accordance with the following conditions.

9.0 Reasons and Considerations

The site is located in a rural settlement cluster where a neighbourhood school is acceptable in principle; notwithstanding it's dispersed catchment, the small scale of the proposed school is similar to a neighbourhood school; the proposed on-site wastewater provision is acceptable; the proposed development would not impact on the amenities or the area or cause traffic hazard; the site area would be adequate to serve the needs of the proposed school population; accordingly the proposed development would 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, 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 The proposed proprietary effluent treatment and disposal system shall be provided in accordance with the details submitted. The invert level of the polishing filter shall be at least 200mm above the existing ground level.

Details of the arrangements in relation to the ongoing maintenance of the system, for the duration of its use, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of commissioning, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document: Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

Reason: In the interest of public health.

3 Prior to the commencement of development, proposals for the boundary with the residential property to the north shall be agreed in writing with the planning authority; to comprise a durable screen fence extending from the end of the block wall to the eastern end of the northern boundary; and the fence shall be erected prior to commencement of use of the school.

Reason: In the interest of amenity.

4 All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site to the satisfaction of the planning authority. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of orderly development.

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

21 March 2024

Appendix 1 Photographs

Appendix 2 Longford County Development Plan 2021-2027 extracts

Appendix 3 EPA Code of Practice: Domestic Waste Water Treatment Systems
(Population Equivalent ≤ 10 , extracts

Appendix 4 Groundwater Protection Response Matrix for Single House Systems

Appendix 5 Treatment Systems for Small Communities, Business, Leisure Centres
and Hotels (PE 10-500) EPA 04/99/500, extracts

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	318493		
Proposed Development Summary	change of use of existing residential dwelling (and vacant village store) (G.F.A. 167.8 sq. m./1806.2 sq. ft.) to community education use, consisting of 3 no. classrooms and ancillary facilities. The change of use will entail essential repairs, internal alterations, replacement of the existing septic tank with a proprietary treatment system and all associated site works.		
Development Address	Barry, Keenagh, Co. Longford		
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)
No	/	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

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

Inspector: _____ Date: _____