



An
Bord
Pleanála

Inspector's Report ABP-320243-24

Development	Construction of a dwelling, domestic garage, and all associated site works.
Location	Gorteen, Killeigh, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	2360241
Applicant(s)	Kate Quinn
Type of Application	Permission
Planning Authority Decision	Grant permission with conditions
Type of Appeal	Third Party
Appellant(s)	Mary Clear and others.
Observer(s)	Nil
Date of Site Inspection	3/10/24
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The subject site has an area of c. 0.303ha and is located in a rural area of south County Offaly c. 3.5km to the southwest of the village of Killeigh. The site is accessed off the L2006 local road, which provides access to several one-off houses and agricultural buildings along its length.
- 1.2. The site is rectangular in shape and is bound to the north by land in agricultural use (and further to the north by an access road to the neighbouring dwelling), agricultural land to the east (and further to the east by the dwelling at Cush Lower, Clonaslee, Co. Laois on the opposite side of Clodiagh River) and agricultural land to the south.
- 1.3. The site is generally flat and is not under tillage or used for pasture at the present time.

2.0 Proposed Development

- 2.1. The proposal comprises of the following:
 - Construction of a dwelling.
 - A separate garage.
 - Aswasep Septic Tank NS 4 S Tank (6,200 litres) including percolation area.
 - New vehicular access.
 - All associated works.
- 2.2. The proposed dwelling is a part single storey, part two storey, with an internal area, as shown on the submitted floor plans of 245m² and a maximum height of 7.742m. The proposed dwelling would be predominantly finished in render with natural stone feature style walls to the front of the dwelling.
- 2.3. The proposed garage is located to the northeast of the main dwelling and has a floor area of 54m² and has a maximum height of 5.3m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 The planning authority decided on 27 June 2024 to grant planning permission subject to 16 conditions including a 7-year occupancy condition, external finishes, sightlines, surface water, wastewater, retention of trees/ hedgerows, landscaping, and development contributions.

3.1.2 The decision was in accordance with the planning officer's recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on file. The first report, dated 21 February 2024 recommended that further information was sought relating to the following:

- Need for an appropriate flood risk assessment for the proposed development, which identifies any issues and proposes any design solutions to mitigate the potential risks from all sources of flooding.
- Need for an enter to Build Over / Diversion Agreement with Irish Water prior to any works taking place on site, as there appears to be an existing public water main traversing the site underneath the proposed development. Need for the applicant to submit written evidence to Offaly County Council that a connection agreement has been agreed with Uisce Eireann and that they consent to the proposed works.
- Need for full details on the access driveway over the open drain.
- Applicant is invited to address third party concerns.

3.2.2. Other Technical Reports

Area Engineer dated 9 February 2024 requesting further information relating to details of the access driveway over the open drain.

Environment and water services dated 22 January 2024 requesting further information relating to the need for a flood risk assessment and the need to confirm in writing that the development has been designed such that the risk of flooding to the development

has been reduced as far as reasonably practicable. The need to provide written confirmation that a connection agreement has been reached with Uisce Eireann.

3.2.3. A further information response was received on 3 June 2024 on five items including:

- A site-specific flood assessment.
- A written agreement with Uisce Eireann.
- Details relating to the access driveway.
- Response to third party concerns.
- Details of the propose stone finish.

3.2.5 A second planning report dated 27 June 2024 recommends that planning permission be granted, subject to conditions. The second planning officers report notes that there are no objections to the proposed development from the internal departments as a result of the applicant's response to further information.

3.3. **Third Party Observations**

There are no third-party observations on file.

4.0 **Planning History**

4.1 Subject land

Reg. Ref. 23/60219: Application for a storey and half dwelling type and domestic shed with effluent treatment system and percolation area. Application declared invalid.

5.0 **Policy Context**

5.1 **Project Ireland 2040 National Planning Framework (NPF)**

5.1.1 National Policy Objective 19- Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere: In rural areas under urban influence, facilitate the provision of single

housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements; In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2 Eastern and Midlands Regional Spatial and Economic Strategy 2019-2031 (RSES)

5.2.1 RPO 4.80: Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3.1 Development Plan- Offaly County Development Plan 2021-2027

5.3.1 The *Offaly County Development Plan 2021-2027* is the operative plan. Chapter 2 of the Development Plan sets out the Core Strategy for County Offaly and seeks to ensure that the development objectives of the Development Plan are consistent with national and regional development objectives. With regard to the development of the rural areas of the county Section 2.4.7 outlines that rural population will continue to be supported through smaller towns, villages and Sraids. While there is support for housing and repopulation, as necessary, taking place within towns and villages to help act as a viable alternative to one-off housing in the open countryside, Section 2.4.7 acknowledges that the open countryside is and will continue to be, a living and lived in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, tourism and rural enterprise. It is noted that this would be achieved at the same time as avoiding ribbon and over-spill development from urban areas and protecting environmental qualities. Section 2.4.7 of the Development Plan notes that the Council will ensure that development of the open countryside takes

place in a way that is compatible with the protection of key economic, environmental, biodiversity and cultural / heritage assets such as the road network, water quality and important landscapes.

5.3.2 As shown on the map in Figure 2.6 'Open Countryside Housing Policy Map' the subject land is identified as being within the Rural Areas Under Strong Urban Influence and Stronger Rural Areas.

Section 2.5 of the Offaly County Development Plan sets out the Settlement Strategy policies. The following are the relevant standards / policies set out in the *Offaly County Development Plan 2021-2027*:

SSP-01 It is Council policy to develop the county in accordance with the Settlement Hierarchy and to require future residential development to locate at and be of a scale appropriate to the settlement tiers and levels identified in the Core Strategy Table.

SSP-04 It is Council policy to arrest the decline and stagnation in areas that have experienced low population growth or decline in recent decades and manage the growth of rural areas that are under strong urban influence and stronger rural areas to avoid over-development, whilst sustaining vibrant urban communities.

SSP-17 It is Council policy to support housing and repopulation taking place within villages in a consolidated, sustainable and sequential manner, and to promote the provision of serviced sites supported by Irish Water in order to attract people to build their own homes and live in villages as an alternative to one-off housing, whilst also managing the levels of growth at an appropriate scale to ensure compliance with the Core Strategy Table.

SSP-27 Having regard to the need to protect County Offaly's natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (1-4) can be demonstrated:

1. The applicant has a functional economic or social requirement to reside in this particular rural area in accordance with (i) or (ii):

(i) Economic requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Economic Requirement in County Offaly shall be taken as including persons who by the nature of their work have a functional economic need to reside in the local rural area close to their place of work. It includes persons involved in full-time farming, horticulture, or forestry as well as similar rural-based part-time occupations where it can be demonstrated that it is the predominant occupation. The 'local rural area' is defined as the area generally within 8km radius (5km radius particular to Areas of Special Control) of the place of work.

Or

(ii) Social requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Social Requirement in County Offaly shall be taken as including (a) or (b) below:

(a) The applicant was born within the local rural area or is living or has lived in the local rural area for a minimum of 5 years (15 years particular to Areas of Special Control) at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local rural area. The 'Local Rural Area' for the purpose of this policy is defined as the area generally:

(b) within an 8km radius (5km radius particular to Areas of Special Control) of where the applicant was born, living, or has lived. For the purpose of this policy, the rural area is taken to include 'Villages' listed in the Settlement Hierarchy, but excludes Tullamore, Birr, Edenderry, Portarlinton, Banagher, Clara, Daingean, Ferbane and Kilcormac (i.e. the Key Town, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Smaller Towns listed in the Settlement Hierarchy.

Or

(b) Special consideration shall be given in cases of exceptional health circumstances - supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support or requires a close family member to live in close proximity to that person.

2. The applicant does not already own or has not owned a house in the open countryside.

3. If the site is located within an Area of Special Control, there is no alternative site outside of Areas of Special Control.

4. High quality siting and design.

5.3.3 Chapter 13 sets out Development Management Standards for County Offaly. The following are pertinent to the consideration of a dwelling in the countryside:

DMS-44 On-site Wastewater Treatment states that:

Where public services in the form of water supply and sewerage mains are available (or likely to be), the developer will be required to connect to them.

For individual on-site wastewater treatment systems, the standards and guidance on design, operation and maintenance of on-site wastewater treatment systems as set out in the Environmental Protection Agency (EPA) 'Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses' (October, 2009) or any later version that may be issued by the EPA during the lifetime of this Plan shall be complied with.

DMS-45 Site Size states that:

A minimum site size of 0.2 hectares (0.5 acres) is required to accommodate a dwelling in the open countryside.

DMS-46 Road Frontage states that:

Dwellings in the open countryside shall provide a minimum of 30 metres road frontage unless on a case-by-case basis, it is desirable to maintain existing boundary or landscape features or in relation to back land sites that it can be demonstrated that there are no negative residential, visual amenity, traffic or landscape impacts.

DMS-47 Building Line states that:

Dwellings shall not be located in front of established building lines unless the site is well set back from the public road and makes use of the topography and natural screening in the landscape safeguarding the residential amenities of nearby dwellings.

DMS-48 Design and Siting states that:

All planning applications for single houses in the countryside shall demonstrate a high standard of siting and design in accordance with Offaly County Councils booklet 'Designing Houses, Creating Homes – A Guide for Applicants on the siting and design of new houses in the Offaly countryside.'

DMS-50 Landscaping and Boundary Treatment states that:

Boundary treatment and landscaping proposals for residential development in the countryside shall be in accordance with Section 6 of the Offaly County document 'Designing houses, creating homes – A guide for applicants on the siting and design of new houses in the Offaly Countryside'.

Hedgerows should be retained and reinforced and only removed where absolutely necessary for the achievement of sightlines ensuring safe entry and exit to a site. Where limited removal is required in order to meet with achievement of sightlines, new hedgerows consisting of species native to the area as listed in Table 4.16 in Chapter 4 of Volume 1 of this Plan shall be planted inside the line of visibility.

The design of entrances to houses in the countryside shall be in keeping with its rural setting. Brick walls and ornamental features will be discouraged. Planning applications should be accompanied by details of the proposed entrance including details of gates, piers, wing walls etc. as well as of front boundary treatment.

In the event that the removal of trees is deemed to be necessary, it will be conditional on replacement with appropriate species and at a ratio of at least two replacement trees for each single tree removed.

DMS-51 On-site Wastewater Treatment states that:

Where public services in the form of water supply and sewerage mains are available (or likely to be), the developer will be required to connect to them; For individual on-site wastewater treatment systems, the standards and guidance on design, operation and maintenance of on-site wastewater treatment systems as set out in the

Environmental Protection Agency (EPA) 'Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses' (October, 2009) or any later version that may be issued by the EPA, shall be complied with.

DMS-52 Water Supply states that:

The provision of a safe and reliable water supply is a requirement of development. Where a site is served by mains water, a connection must be made, and a bored well is not permitted.

DMS-53 Surface Water Drainage states that:

Surface water shall not be permitted to flow on to the public road from any rural residential site. Accesses and road frontage should be designed in such a manner as to deal with surface water and ensure that it does not impact on the public road. Existing roadside drainage shall be maintained by the incorporation of a suitably sized drainage pipe. Each application shall be accompanied by design calculations or appropriate evidence to support the size of the pipe selected.

DMS-57 Domestic Garages/Stores states that:

The development of a domestic garage/store for use ancillary to the enjoyment of the dwelling house will be considered subject to the following standards:

- The garage/store shall have a maximum floor area of 100m² and a maximum height of 5 metres in the open countryside.
- The maximum floor area and height of a garage/store in urban areas will be accessed on a case-by-case basis having regard to the size of the dwelling it serves, the rear garden size and potential to overshadow adjacent properties.
- The design and external finishes of the domestic garage/store shall be in keeping with that of the dwelling house.

The Council may consider exceptions to these criteria having regard to the need for the development and the characteristics of the site.

DMS-97 relates to safe Sight Distances required for access onto National, Regional and Local Roads and states that:

The following safe sight distances shall be provided from vehicular entrances on the road network.

- Local Tertiary Roads: 60 metres.
- Local Secondary Roads: 90 metres.
- Local Primary Roads: 120 metres.
- Regional Roads: 150 metres; and
- National Roads: 230 metres.

As set out by design standards detailed in TII publications, sight distances shall be measured from a point 2.4 metres from the road edge at the proposed access to a point at the near edge of the approaching carriageway. The standard for local roads is at the discretion of the Planning Authority and may be reduced where it would not give rise to a specific traffic hazard. DMS-97 standards apply only to locations other than those to where DMURS applies.

5.4 EIA Screening

- 5.4.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

6 The Appeal

6.1 Grounds of Appeal

A third-party appeal has been submitted by Mary Clear, Mark Clear and Helen Young. The key issues raised with the appeal submission in relation to planning matters can be summarised as follows:

- The proposed dwelling would be adjacent to the land boundary and entrance to the appellants' property.
- Unobstructed line of sight into the appellants home and farmyard and could be more appropriately accommodated elsewhere. This would preserve privacy, the natural environment, and local amenities.

- The stretch of road on the Clonaslee to Tullamore Road (L2006) is notoriously dangerous and the land is situated on one of the few straight parts. There are serious concerns regarding the proximity of the entrance of the proposed development to the existing access to the third parties' land.
- According to Table 7/1, Section TD 41-42/09 of the NRA Design Manual for Roads and Bridges (DMRB) 160m of a line of sight is required for roads of 85kph. The speed limit on the L2006 is currently 80kmh. There is a visibility impairment caused by an existing bridge crossing an unnamed stream which is raised and therefore causes an obstruction of the view, which is a visibility impairment. According to Google Maps the distance from the site entrance is approximately 123m which contradicts the site plans which states that there is a maximum view of 150m. Given the variety and frequency of traffic, these are major concerns.
- The removal of a mature boundary ditch in 2023 and continuous burning of organic material, contrary to the Waste Management Regulations have caused air pollution, landscape damage, and destruction of local habitats. The new boundary growth is insufficient and there have been several complaints about the loss of high trees that served as a road boundary and barrier to the deep drain bordering the field. The removal was completed in its entirety to achieve sight lines measurements taken from a point 2.4m back from the roads edge.
- There are irregularities in the site assessment pertaining to waterways, drains and the use of the land. In the initial site assessment form, it is stated that there are no waterways within 250m of the site, however, there are three situated in front of and behind the site. The first being the Clodiagh River, which runs directly behind the proposed house and 124.08m from the front site boundary.

6.1 Applicant Response

The applicant's response can be summarised as follows:

- The proposed development is located 176.72m from the appellants property and 188.89m from the farm shed on the appellants property. These distances would not impact on the privacy of the residence or farm. As set out in Condition 13 of the notification to grant planning permission the rear and gable boundaries

of the site would be planted with continuous hedgerows and indigenous trees which would provide shelter and privacy for both properties.

- Careful consideration was given to the when determining the position of the site within the 20-acre field to ensure privacy, the natural environment, and local amenities. The site was chosen to ensure that the views of the Slieve Bloom mountains were not impacted for the appellants.
- The vehicular entrance for the proposed development would be set back 86.9m from the appellant's vehicular access. Offaly County Council approved the proposed layout with no concerns.
- Minimum sight lines are achieved, these sightlines have been through rigorous assessment with Offaly County Council who deemed them sufficient. The site entrance would be 169.9m from the bridge which is not raised and has no impact on the visibility of traffic from the site entrance. The road begins to elevate approximately 60m beyond this bridge. The minimum line of sight of 160m is achieved with the proposed site entrance.
- As per further information requested by Offaly County Council on 21/3/24 a flood risk report was conducted by IE Consulting in April 2024. Offaly County Council had no objections to this report, subject to conditions. The area officer in Offaly County Council and Uisce Eireann accepted the proposed design details of the access driveway over the open drain with no objections.
- It is noted that the applicant's response includes an Appendix with letters from the applicant's parents and a letter from a Local Councillor.

6.2 Planning Authority Response

- A letter dated 2/8/24 requests that An Bord Pleanála support the decision of Offaly County Council to grant planning permission.

6.3 Observations

- No observations have been received.

6.4 Further Responses

- No further responses have been received.

7 Assessment

7.1 Having inspected the site and reviewed the documents on the file, I consider that the appeal can be addressed under the following headings:

- Principle of development
- Siting and Design
- Safety of the vehicle access
- Removal of boundary hedges
- Errors on site assessment form and Wastewater Management
- Flooding
- Appropriate Assessment

7.2 Principle of Development

7.2.1 The development of a dwelling in the rural area requires consideration under chapter 2, 'Settlement Strategy' of the *Offaly County Development Plan 2001-2027*. In broad terms the Settlement Strategy seeks to support rural population through smaller towns, villages and Sraids to act as a viable alternative to one-off housing in the open countryside. This approach is compliant with National and Regional policies. The subject site is located in open countryside within an area of Offaly which is designated as 'Areas Under Strong Urban Influence and Stronger Rural Areas' in the *Offaly County Development Plan 2021-2027*. It is further noted that the subject land is approximately 3.5km to the south-west of the village of Killeigh. Given the location of the land within an area designated as 'Areas Under Strong Urban Influence and Stronger Rural Areas' in the *Offaly County Development Plan 2021-2027*, the applicant is required to satisfy policy set out in **SSP-27** which sets out in four criterion which must be satisfied. One criterion which must be satisfied is that the applicant is born within the local rural area or is living / has lived in the local area for a minimum of 5 years. A second criterion is the applicant should not already own a home or has not owned a home in the local rural area, while a third criterion is that the site is located

within an Area of Special Control and if so, there is no alternative site outside of Areas of Special Control. It is noted that the case officer has accepted that the applicant satisfies the requirements set out in policy **SSP-27** of the *Offaly County Development Plan 2021-2027*.

I accept that the applicant has demonstrated that they are originally from the area, they currently live in the area and have not previously owned a home in the area and that the site is not within an Area of Special Control. In my opinion that applicant has demonstrated that they comply with policy **SSP-27 (1-3)** of the *Offaly County Development Plan 2021-2027*.

7.3 Siting and Design

7.3.1 The grounds of appeal states that the proposed dwelling would provide for an unobstructed line of sight into their dwelling and farmyard and that the proposed dwelling could be more appropriately accommodated elsewhere.

7.3.2 The response to the grounds of appeal states that the proposed development is located 176.72m from the appellants property and 188.89m from the farm shed on the appellants property. These distances would not impact on the privacy of the residence or farm. The response to the grounds of appeal also state that careful consideration was given to ensure the privacy of the appellants and that the site was chosen to ensure that the views of the Slieve Bloom mountains are not impacted for the appellants.

7.3.4. I note the appellants concern in relation to the set back of the proposed dwelling from their house and the potential for an unobstructed line of sight into their home and farmyard. I note that neither the application material nor the applicants' response to appeal include a drawing which shows the set back of the proposed development from the appellants dwelling. In lieu of this information I have used internal GIS mapping to estimate the set back of the proposed dwelling from the appellants dwelling. I note that the proposed dwelling would be set back c.117.5m from the front elevation of the appellants dwelling. I further note that the proposed dwelling would not be directly opposing the front elevation of the appellants dwelling. Having considered the foregoing, it is in my opinion no issue of overlooking or loss of privacy would be likely to arise. In addition to this I draw the Bords attention to Condition 13 of the Notification of Decision to Grant Planning Permission, specifically 13 (a) which requires that the

side and rear boundaries of the site be planted with continuous hedgerows and trees of indigenous species. I am of the opinion that the setbacks of the proposed dwelling in combination with the requirement for new hedgerows to be planted would ensure the privacy of the appellants property is maintained.

7.3.5 I make the Bord aware that the consideration of the design of the proposed development is a new issue, however, I am of the opinion that the policy set out in the *Offaly County Development Plan 2021-2027* requires that the design of rural dwellings be considered. I refer specifically to the fourth criterion of policy **SSP-27** which notes that in order for a dwelling in Rural Areas under Strong Urban Influence and Stronger Rural Areas to be considered high quality siting and design must be demonstrated. In addition to this Development Management Standard (**DMS-48 Design and Siting**) notes that all planning applications for dwellings in the county side should demonstrate a high standard of siting and design in accordance with the *'Designing Houses, Creating Homes-A Guide for Applicants on the siting and design of new houses in the Offaly countryside'*.

Having considered the policy set out in the *Offaly County Development Plan 2021-2027* I would have concerns in relation to how the design of the proposed dwelling would accord with the scale, form and design guidance set out in the *'Designing Houses, Creating Homes-A Guide for Applicants on the siting and design of new houses in the Offaly countryside'*, which Development Management Standard **DMS-48** of the *Offaly County Development Plan 2021-2027* requires to be considered for all dwellings in the countryside. Section 3 of the Guide deals with the design of dwellings. I note that the case officer in their report dated 21/2/24 states the design is satisfactory having regard to *Designing Houses, Creating Homes-A Guide for Applicants on the siting and design of new houses in the Offaly countryside'*. While I acknowledge the comments of the case officer, and that design-based opinions are subjective, I am inclined to disagree with the assessment of the case officer. My concern relates to the predominantly two storey design of the projecting features to the front of the building. I note that such design is discouraged on page 8 of the *'Designing Houses, Creating Homes-A Guide for Applicants on the siting and design of new houses in the Offaly Countryside'* in which designers are requested to avoid suburban, urban and other fussy, tired and complicated designs which are unsuited to rural areas. In addition to the above, I note that section 4 states that dry dash and

artificial stone finishes should be avoided. The two storey projecting elements to the front of the dwelling are predominantly finished in stone. Having considered all of the foregoing and taking a balanced approach, I consider the design of the proposed dwelling to be contrary to the provisions of Development Management Standard **DMS-48** of the *Offaly County Development Plan 2021-2027* as the design of the proposed dwelling does not have due cognisance of *Designing Houses, Creating Homes-A Guide for Applicants on the siting and design of new houses in the Offaly Countryside*, specifically Sections 3 and 4 which relate to design and finishes. Considering this, it is my opinion that the proposed dwelling would provide for a visually prominent development which would represent an incongruous feature in the local landscape and would be contrary to the proper planning and sustainable development of the area.

- 7.3.6 With regard to the garage I note that Development Management Standard **DMS-57** of the *Offaly County Development Plan 2021-2027* requires that a garage / store shall have a maximum floor area of 100m² and a maximum height of 5m in the open countryside. The proposed shed would have a floor area of c. 57m² which would comply with Development Management Standard **DMS-57**. However, plans submitted with the application show that the maximum height of the shed is proposed to be 5.2m, this would not comply with policy DMS-57. This matter is relatively minor and could be addressed by way of condition, if the Bord is of a mind to grant planning permission.

7.4 Vehicle Access

- 7.4.1 The grounds of appeal outline concerns relating to the distance of the proposed accessway from the appellants accessway and the risk that this poses on a busy road. The ground of appeal also highlights concerns relating to the site lines from the proposed access are inadequate and do not comply with the distances prescribed in Table 7/1, Section TD41-42/09 of the NRA Design Manual for Roads and Bridges (DRMB). The grounds of appeal note that a bridge which is located 123m from the new access point causes a visibility impairment as the bridge is raised and causes an obstruction of view.
- 7.4.2 The applicants' response to the grounds of appeal notes that the distance between the proposed accessway and the accessway to the appellants property is 86.9m. The applicants' response notes that the local authority approved the entrance with no

concerns. In relation to sight lines the applicants' response to the grounds of appeal states that minimum sight lines are achieved. The sight lines have been through rigorous assessment with the local authority. The applicants' response states that the bridge is 169.9m from the site entrance and that the bridge is not raised and has no visibility impacts on traffic oncoming from the site.

- 7.4.3 I have consulted the planning application file in respect of this application and note in the initial application the Area Engineer recommended the applicant be requested to provide further information in relation to design details of the access driveway over the open drain (including pipe culvert to ensure the carrying capacity of the drain is maintained and a cross section of the accessway and backfill information). I cannot find any discussion relating to the sight lines achieved by the accessway.
- 7.4.4 The subject site has access onto a local road (L2006) and not one of the restricted regional routes as set out in Table 8.4 of Section 8.6.2 of the *Offaly County Development Plan 2021-2027*. I note that Development Management Standard **DMS-97** (Sight Distances required for access onto National, Regional and Local Roads) of the *Offaly County Development Plan 2021-2027* states that a sight distance of 120m would be required for a Local Primary Road.
- 7.4.5 The sight distances set out in Development Management Standard **DMS-97** would appear to align with Table 9.3 of the TII publications DN-GEO-03031 Design Speed Related Parameters (identified as being one step below the desirable minimum). The layout plan submitted with the original application displays a sightline of 150m in both directions. I note that condition 5(a) of the Notification of Decision to Grant Planning Permission requires that the sight lines as shown on the site layout map submitted shall be provided and maintained free of obstruction.
- 7.4.6 I have visited the site and note that there is a rise in the road to the south / southwest and that a certain amount of visibility is reduced, however, on balance, it is my opinion that there is a reasonable distance between the rise in the road and the proposed access to the dwelling to allow for a driver to notice / react to a car using the access / egress to the site. I consider that the sight lines achieved by the proposal are adequate and comply with the distances set out in Development Management Standard **DMS-97** of the *Offaly County Development Plan 2001-2027*. The sight line distances are acceptable in terms of traffic safety.

7.5 Removal of boundary hedges

- 7.5.1 The grounds of appeal outline concerns in relation to the removal of a mature boundary ditch in 2023. The grounds of appeal note that the boundary ditch had been in place since the 1070's and was removed prior to this planning application being made to achieve sight lines for the access to the proposed development.
- 7.5.3 In considering hedgerows I note it is the Development Management Standard (**DMS-50** Landscaping and Boundary Treatment) of *Offaly County Council Development Plan 2021 to 2027* states that hedgerows should be retained and reinforced and only removed where necessary for the achievement of sightlines ensuring safe entry and exit to a site. In addition to this, where limited removal is required to meet with achievement of sightlines, new hedgerows consisting of species native to the area as listed in Table 4.16 in Chapter 4 of Volume 1 of this Plan shall be planted inside the line of visibility.
- 7.5.4 The response to the grounds of appeal does not provide any detail as to the reason the hedgerow was removed. Notwithstanding this and having undertaken a site visit, I would agree with the appellant that a large amount of the front hedgerow has been removed. It is noted that Offaly County Council has a stated policy to retain and reinforce hedgerows (as set out in Development Management Standard **DMS-50**). While the hedgerow which was removed cannot be replaced, I would draw the Bords attention to Condition 5 of the Notification of Decision to Grant Planning Permission which requires the existing roadside boundary to be removed to preserve sightlines and that where the roadside boundary is removed it shall be replaced by a new native species hedgerow. I am of the opinion that the provisions of condition 5 of the Notification of Decision to Grant Planning Permission adequately deals with this matter.

7.6 Wastewater management

- 7.6.1 The grounds of appeal highlight concerns relating to irregularities pertaining to waterways, drains and the use of the land within the Site Characterisation Form submitted with the initial application. There are concerns that figure section 3.0 of the form incorrectly states that there are no waterways within 250m of the site. The appellant is of the opinion that this significantly impacts the validity of the planning decision.

7.6.2 It is proposed to install an effluent treatment system and associated percolation area on site and therefore it is in order to consider if the site is suitable for the proposed disposal of treated effluent to ground. I have inspected the Site Characterisation Form submitted with this application, I would agree with the appellant that the form was filled out incorrectly and does not acknowledge the various water bodies surrounding the site. I note that, from using the internal An Bord Pleanála GIS system that the edge of the River Clodiagh is c. 45m from the rear boundary of the land. In addition to this, there is an open ditch / drain to the front of the site (c.30m from the front elevation of the proposed dwelling). There is also an unnamed river which runs on the opposite side of the L-2006 local road.

I refer the Bord to the Site Characterisation Form which shows that the percolation tests carried out on site suggests that the soils and subsoils inherent on the site have adequate percolation and infiltration qualities to accommodate a proprietary wastewater treatment system. The form shows that subsoil comprises of grey / brown podzolic which is silty with no bedrock encountered. In addition to this the water table was found at 2.1m below ground. The percolation tests yielded T values of 52 and P values of 25.17 both of which would comply with the standards set out in the EPA Code of Practice.

With regard to the separation distance of the proposed wastewater treatment plant from watercourses I refer the Bord to Table 6.2 of the EPA Code of Practice. The setback for a septic tank system from a watercourse / stream or drainage ditch is 10m as set out in Table 6.2. The proposed effluent treatment system and percolation area would be c.45m from the closet bank of the Clodiagh River and c. 60m from the drainage ditch to the front of the property. I am satisfied that the effluent treatment system and percolation area is compliant with the setbacks set out in Table 6.2 of the EPA Code of Practice. Having considered all the foregoing, I consider the effluent treatment system and percolation area to be acceptable.

I also inform the Bord that the dwelling would be connected to the public main supply.

7.7 Flooding

7.7.1 While not included in the grounds of appeal, I wish to make the Bord aware that a Site-Specific Flood Risk Assessment was requested by the Environment and Water

Services Section of Offaly County Council by way of a further information request in a report dated 21/2/24.

- 7.7.2 The applicants provided a Site-Specific Flood Risk Assessment which notes that the site of the proposed development is within Flood Zone 'C' and with the proposed finished ground floor level 0.705m above the predicative 0.1% AEP and as such is sufficiently elevated above the predicted 0.1% AEP level.
- 7.7.3 The Site-Specific Flood Risk Assessment concludes that the proposed development is not expected to result in an adverse impact to the existing hydrological regime in the area or increase flood risk elsewhere and that the development as proposed would be appropriate from a flood risk perspective.
- 7.7.4 Having considered all the foregoing, I consider the proposed development would not result increase the risk of flood either within the site itself or the surrounding area. The proposal is considered to be acceptable from a flood risk perspective.

8 AA Screening

- 8.1 I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 8.2 The proposed development is located within a rural area and comprises of the construction of a dwelling, including effluent treatment system, separate garage, and vehicular access.
- 8.3 The subject land is not located in or immediately adjacent to a European site. The closest such site to the appeal site is the River Barrow and River Nore SAC which is located c. 3.5km to the south-east. There is no hydrological connection between the site and the River Barrow and River Nore SAC.
- 8.4 Having considered the nature, scale, and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.
- 8.5 The reason for this conclusion is as follows:
- The relatively small scale of the development

- The location of the development and its distance from the closest European Site.

8.6 I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9 Recommendation

9.1 I recommend that planning permission be refused for the following reason. I reiterate to the Board that this is a new issue in the context of this appeal and the Board may wish to consider issuing a s.137 notice in this regard.

10 Reasons and Considerations

1. By reason of its design and bulk, the proposed house would fail to comply with policy SSP-27(4) and Development Management Standard DMS-48 of the *Offaly County Development Plan 2021-2027* and would be visually obtrusive in this open rural area. The proposed house would, therefore, 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.

Ronan Murphy

Ronan Murphy
Planning Inspector

17/10/24

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference				
Proposed Development Summary	Construction of a dwelling, domestic garage, and all associated site works			
Development Address	Gorteen, Killeigh, 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				
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A		No EIAR or Preliminary Examination required
Yes				

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____