



An  
Bord  
Pleanála

## Inspector's Report ABP 320881-24

<b>Development</b>	House, secondary waste water treatment system and all ancillary site development works.
<b>Location</b>	Horistown, Rathkenny, County Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority Reg. Ref.</b>	231134.
<b>Applicant</b>	David Curtis.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission subject to conditions.
<b>Type of Appeal</b>	Third Party v. decision.
<b>Appellants</b>	Simon and Nuala Carroll.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	10 December 2024.
<b>Inspector</b>	B. Wyse.

## **1.0 Site Location and Description**

- 1.1. The site is located in the rural area of Horistown, Rathkenny, County Meath, approximately 5kms north west of Slane. The area is characterised by good agricultural land with a significant amount of one-off housing.
- 1.2. The site as revised (see Section 2.0 below) has an area of approximately 0.3has and comprises the north eastern corner of a large field currently under grass. The site is towards the bottom of a slope, with ground levels within the site generally falling from south to north. The northern boundary is defined by a tall hedge. The lane frontage (western boundary) is defined by a post and wire fence, including a field gate. The remaining boundaries are not defined. Access is via an unmetalled cul-de-sac lane off the public road (L-1624) to the north.
- 1.3. The appellants house is located adjacent to the north of the site at the junction of the laneway and the public road.

## **2.0 Proposed Development**

- 2.1. The application as first submitted to the planning authority on 15<sup>th</sup> December 2023 provided for the following:
  - A site located in the south western corner of the field.
  - A 3 bedroom bungalow, floor area 148.87 sqm.
  - A secondary treatment system and polishing filter. Public mains water supply.
  - New entrance and associated site works.

Documentation included:

Letters of consent from landowner, June Curtis, the applicant's aunt.

Site Suitability Assessment.

- 2.2. The planning authority requested further information in relation to the following:
  - Revised house siting and design.
  - Evidence of local housing need.

- Measures to provide for adequate sightlines at the junction of the laneway and the L-1624.

2.3. Further information submitted on 15<sup>th</sup> July 2024 included:

- Revised site location at the north eastern corner of the field.
- Slightly revised house design, including steeper roof pitch.
- Landscaping proposals.
- Drawings indicating sightlines at junction of laneway and L-1624.
- Documentation in support of the applicant's local housing need.

2.4. As the further information was deemed significant revised public notices were posted.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The decision to grant permission relates to the revised proposal and is subject to 9 conditions.

Conditions 1,2 and 6 refer to the revised proposal submitted on 15<sup>th</sup> July 2024.

Condition 3 is a standard domestic waste water treatment condition.

Condition 4 is a standard surface water condition.

Condition 5 specifies design requirements for the entrance.

Conditions 7,8 and 9 are Section 48 development contribution conditions.

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

##### 3.2.1. **Planning Reports** (dated 15 Feb 2024 and 4 September 2024)

Basis for planning authority decision. Include:

- Details submitted in relation to site suitability for waste water treatment (original site) indicate favourable ground conditions. Environment Department consulted but no report received.

- Site not located within an area of known fluvial or pluvial flooding as per the OPW Flood Risk Maps.
- The documentation submitted as further information in relation to local housing need deemed to be sufficient for that purpose. Reference to Section 9.4 of the development plan.
- In relation to the Transportation Department recommendations noted that the site is located on a laneway off a local road and that the retention of hedgerows on lightly trafficked roads is given priority.
- Appropriate Assessment not required.
- Environmental Impact Assessment not required.

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

Transportation Department (dated 6 February 2024 and 28 August 2024). Include conditions as follows:

- Unobstructed sightlines of 160 metres to be maintained along the L-1624 from a setback point of 3 metres on the laneway.
- Entrance to site to comply with the Meath Rural Design Guide.
- Entire boundary hedge along the laneway to be set back at least 3 metres.

### 3.2.3. **Observations to Planning Authority**

The appellants lodged objections to the development as originally proposed and as revised. Issues raised are similar to those raised in the grounds of appeal. A response from the applicants lodged with the planning authority is also noted.

The planning authority Planners reports refer to a second observation that also raised similar issues.

One Councillor representation is also noted.

## 4.0 **Planning History**

None relevant.

## 5.0 Policy and Context

### 5.1. Development Plan

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

Section 9.2: Rural Settlement Strategy – overall goal to ensure that rural generated housing needs are accommodated in the areas they arise subject to satisfying good practice etc.

Strategic Policies RUR DEV SP 1 and 2 – to ensure that individual house developments in rural areas satisfy the requirements of persons who are an intrinsic part of the rural community subject to normal planning criteria and recognising the characteristics of the individual rural area types.

Section 9.3: The subject site is located in Rural Area Type 3 – Low Development Pressure Areas. The key challenge for such areas is to arrest population and economic decline. The area has the weakest urban structure within the county and it is stated that rural housing policy should reflect this. Policy RD POL 6 – to accommodate demand for permanent residential development as it arises subject to good practice etc.

Section 9.4: Includes:

*The Planning Authority recognises the interest of persons local to or linked to a rural area, who are not engaged in significant agricultural or rural resource related occupation, to live in rural areas.*

*For the purposes of this policy section, persons local to an area are considered to include:*

- Persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside;*

Section 9.5.1: indicates development assessment criteria for all areas, including; housing need background (as per Section 9.4); local circumstances such as trends towards over development; degree of development on original landholding; site suitability; and infill development.

Section 9.6: refers to design and siting considerations, including the design guide for rural housing (Appendix 13 to the plan).

Appendix A05: Site is located in Rathkenny Hills and Upland Area – Landscape Character Type of Very High Value and High Sensitivity.

Section 9.18: Technical Requirements. Includes Policy RD POL 48 requiring all septic tanks/proprietary treatment plants to comply with EPA Code of Practice for domestic systems 2021 or any updated version/guidelines.

## **5.2. Natural Heritage Designations**

River Boyne and Blackwater SAC and SPA ( Site Codes 0002299 and 0004232) located over 6kms (straight line) to the southeast.

Boyne Woods pNHA (Site Code 001592) located as above.

## **5.3. EIA Screening**

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

See EIA -Preliminary Examination Form on file.

## **6.0 The Appeal**

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

The appeal is lodged by Simon and Nuala Carroll, residents of the adjacent house to the north of the subject site (as revised). Main grounds include:

- No new percolation test holes were dug on the revised site.

- Rainwater from the hill behind the appellants house frequently floods their garden and runs down the laneway and floods the road in front of their house – photographs enclosed.
- Stone gets washed down the lane blocking drains and giving rise to excess water on the road. This causes hazardous conditions for road users. Another house on the lane would add traffic further dislodging the stone surface.
- The waste water treatment system, being closer to the appellants boundary, could have a negative effect on their well.
- While the stated intention is to connect to mains water the appellants understand that there is no mains water close by. Any proposed well could affect the appellants well.
- The appellants would be overlooked as the proposed dwelling would be on an elevated site close to the boundary hedge that is without leaf for about six months of the year. The increased roof height gives rise to concerns that the house will be changed to dormer style in time.
- It would take several years for the proposed planting to mature and it might affect the appellants deciduous hedge.
- The appellants purchased there home in anticipation of rural peace and tranquillity. It never occurred that the land behind their house would be developed.

## 6.2. Applicant Response

Includes:

- The revised location for the house was as a result of the request from the Council to move to lower ground and to better integrate into the local landscape.
- New test holes for percolation are only required where the changed location is likely to have significantly different geological conditions. Any proposed well on the subject site is such that the respective zones of influence will not overlap (sic).

- The proposed waste water treatment system is compliant with standards including separation distances from adjacent systems and wells. Condition 3 imposes strict standards and will be complied with.
- The existing well established boundary hedge, c.2.5- 3.0m high, along the full length of the rear of the appellants property forms a substantial visual obstruction. The landscaping plan will provide additional screening and there will be no impact on the integrity of the existing hedge.
- The proposed bungalow is orientated such that a gable wall will face north towards the appellants property, so no direct overlooking will occur. The separation distance will be 40m, exceeding the accepted standard of 22m for back to back two storey houses.
- The increased ridge height, requested by the Council, will not impact the appellants right to light or their view given the separation distance and the height of the existing boundary hedge.

### **6.3. Planning Authority Response**

The Board will note that this response, which refers to a refusal of planning permission, appears to be in error.

### **6.4. Observations**

None received.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. Further to Sections 2.0 and 3.0 above the Board will note that the proposed development now before the Board in this appeal is the revised proposal as per the further information submitted to the planning authority on 15<sup>th</sup> July 2024. My assessment is carried out accordingly.
- 7.1.2. The main issues raised in the grounds of appeal refer to; foul drainage; flooding; water supply and residential amenity.



7.1.3. The issue of rural housing need was addressed in some detail by the planning authority. I note that the site is located in a low development pressure area as identified in the county development plan. While the requirements as set out in the plan for the establishment of housing need in such areas are, in my view, somewhat ambiguous, the planning authority was satisfied that these had been met in this case. I am satisfied, therefore, that there is no basis to raise the issue as a new issue in the appeal.

7.1.4. I am satisfied that the main issues in this appeal are those raised in the grounds of appeal. The issues are addressed under the following headings:

- Foul Drainage
- Flooding
- Water Supply
- Residential Amenity

## **7.2. Foul Drainage**

7.2.1. A particular difficulty in this case arises because the site itself was changed following on from the further information request issued by the planning authority. No new site suitability assessment was requested or submitted and the applicant continued to rely on the original documentation. While the appellants, in their second observation submission to the planning authority, queried the absence of new percolation test holes on the revised site the planning authority's planners report did not address the issue. I also note that the first planners report indicates that the Environment Section was consulted but no comments were received and that there is no mention of the Environment Section in the second report. The planning authority decision includes a standard condition (Condition 3) in relation to the proposed waste water treatment system.

7.2.2. As indicated the appellants raise the issue again in the grounds of appeal. The applicants response is to suggest that new test holes for percolation are only required where the changed location is likely to have significantly different geological conditions. There is no such advice contained in the EPA Code of Practice, Domestic Waste Water treatment Systems, 2021, compliance with which is a specific requirement of the development plan. In fact the code expressly advises that the

percolation test holes, and the trial hole, should be located adjacent to the proposed percolation area. As such this will give the most accurate indication of the suitability of the ground conditions where the treatment of waste water is actually proposed to be carried out. Soils, subsoils and underlying geology can vary considerably even over relatively short distances. Maintaining in this case that such is unlikely, even if this might be true, is not sufficient.

- 7.2.3. In my view, given the circumstances as set out, there is no basis in this case to conclude that the site is suitable to accommodate the treatment and disposal of foul effluent as proposed. I consider, therefore, that the appeal should be upheld and that permission should be refused for this reason.

### **7.3. Flooding**

- 7.3.1. As indicated in the planning authority planners report the OPW Flood Risk Maps do not indicate any known flooding events in the vicinity of the site. The appellants submission, including photographs, appears to me to suggest an issue with road drainage that might arise from time to time during periods of heavy rainfall. I do not see any evidence to suggest that the proposed development of one house on a large site off the laneway would exacerbate this situation.

### **7.4. Water Supply**

- 7.4.1. The application as lodged with the planning authority includes provision for a connection to a mains water supply and this was accepted by the planning authority. However, the appellants query if there is a mains supply available and raise concerns in relation to a possible impact on their well if a well supply is necessary on the subject site. The applicants response on this issue is unclear and seems to suggest that it might be necessary to provide a well.
- 7.4.2. Given my recommendation at Section 7.2.3 above I do not consider that this issue need be pursued at this stage by the Board. Any further planning application for development on the site would need to make the position clear.

## **7.5. Residential Amenity**

- 7.5.1. The appellants concerns here relate to possible overlooking and a sense of invasion of privacy relative to the existing rural environment.
- 7.5.2. Given the large site areas and the separation distances involved I agree with the applicants that no significant negative impacts on the appellants residential amenities would arise. The proposed house is single storey and is orientated east west with only the northern gable end, which does not feature any windows, facing directly towards the appellants property. The intervening boundary hedge is also a significant screen and is proposed to be supplemented by additional planting as provided for in the landscaping scheme. It is also open to the appellants to further add screen planting on their side of the common boundary. Any future proposal to add upper floor accommodation to the house would have to be subject to an appropriate assessment in due course.

## **7.6. Appropriate Assessment Screening**

- 7.6.1. The subject site is located over 6kms (straight line) from the nearest European Sites – The River Boyne and Blackwater SAC and SPA (Site Codes 0002299 and 0004232).
- 7.6.2. The proposed development comprises a single house, an on-site waste water treatment system and associated site development works.
- 7.6.3. No nature conservation concerns were raised in the planning appeal.
- 7.6.4. Having considered the nature, small scale and location of the project, and taking account of the screening determination of the planning authority, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.
- 7.6.5. I conclude, 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. Appropriate Assessment, therefore, is not required.

## 8.0 Recommendation

8.1. I recommend that permission be refused for the following reason.

## 9.0 Reasons and Considerations

Having regard to the absence of a Site Suitability Assessment specific to the subject site (being the revised site as identified in the further information submission to the planning authority on 15<sup>th</sup> July 2024 and being the subject of new public notices and the decision of the planning authority), the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Brendan Wyse  
Planning Inspector

16 December 2024

## EIA - Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	320881-24
<b>Development Summary</b>	<i>House, waste water treatment system and associated site works.</i>
<b>Examination</b>	
	<b>Yes / No / Uncertain</b>
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?	<i>No</i>
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?	<i>No</i>
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?	<i>No</i>
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?	<i>No</i>
<p><b>Comment (if relevant)</b></p> <p style="color: blue;">Note: No comment is required if Screening Determination is to be undertaken</p> <p style="color: blue;">Note: Comment should be high level and will normally be required where Yes or Uncertain is selected in answer to one or more of the above.</p> <p><b>EG1: - Screening determination <b>not required</b>. (No issues)</b></p> <p>Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.</p> <p><b>EG2:- Screening determination <b>not required</b>. (Sensitive location)</b></p> <p>Notwithstanding the proximity of the proposed development to a [insert details of sensitive location - eg European Site/ NHA/ the Zone of Archaeological Potential for Kilkenny/ etc] the nature and scale of the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.</p> <p><b>EG3:- Screening determination <b>not required</b> (AA issues)</b></p> <p>Having regard to the nature and scale of the proposed development it is considered that the issues arising from the proximity/ connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.</p>	

\* Sensitive locations or features include SAC/ SPA, NHA/ pNHA, Designated Nature Reserves, and any other ecological site which is the objective of a CDP/ LAP (including draft plans)

\*\* Having regard to likely direct, indirect and cumulative effects

**EG4:- EIAR required**

Having regard to the nature, scale and location of the proposed development, and in particular [option to insert details relevant to the nature, scale and location – eg the potential for cumulative effects arising from the scale and nature of the proposed development and the scale of recently constructed and permitted development in the vicinity/ the potential for significant emissions from the proposed development and the proximity to an ecologically sensitive location), there is a real likelihood of significant effects on the environment. An EIAR is, therefore, required.

**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	<input checked="" type="checkbox"/>	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required		
	Sch 7A information submitted?	Yes	No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)		

Inspector Bumpy Date: 12 Dec. 24.

DP/ADP \_\_\_\_\_ Date: \_\_\_\_\_

(only where EIAR/ Schedule 7A information is being sought)

\* Including changes or extensions to existing or permitted development

# Appendix 1 - Form 1

## EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference		320881-24					
Proposed Development Summary		House, waste water treatment system and Associated site works.					
Development Address		Hoxistown, Rathkenny, Co. Meath					
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)			<table border="1"> <tr> <td>Yes</td> <td>✓</td> </tr> <tr> <td>No</td> <td>No further action required</td> </tr> </table>	Yes	✓	No	No further action required
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	Conclusion				
No		N/A	No EIAR or Preliminary Examination required				
Yes	✓	Class/Threshold.....	Proceed to Q.4				

4. Has Schedule 7A information been submitted?

No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector:

B. Myse

Date:

12 Dec 24