



An  
Bord  
Pleanála

## Inspector's Report ABP-322102-25

<b>Development</b>	Construction of house, sewerage treatment system and percolation area together with all associated site works.
<b>Location</b>	Ballytrust, Loughduff, Co. Cavan.
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	2460395
<b>Applicant(s)</b>	Aishling Sheridan and Alan Tracey
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Transport Infrastructure Ireland
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17/6/25
<b>Inspector</b>	Ronan Murphy

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in Ballytrust, a rural area approximately 4.7km to the south-east of Ballinagh in County Cavan. The appeal site is accessed from a driveway which connects to a laneway which is accessed from the N55, and which also serves the existing family home and farmyard complex. The N55 is a recently upgraded National Secondary Road which comprises of a two lane, 7m wide single carriageway road with 0.5m wide hard strip and 3m wide minimum grass verges on both sides linking the towns of Cavan and Athlone. As part of the upgrades to the N55 the access to the subject land was improved to incorporate a paved access with a c.13m set back from the road frontage. The speed limit along this stretch of the N55 is 100kmph.
- 1.2. The site has a stated area of c. 0.397 ha and is generally rectangular in shape. The appeal site is located on the southern side of a larger agricultural field currently in use as grazing lands for cattle. It adjoins the farmyard complex where the family home is located.
- 1.3. The southern boundary comprises of a hedgerow long which consists of mature trees and vegetation and separates the appeal site from the existing family dwelling and associated farmyards. The northern and eastern boundaries of the site are currently undefined. The western boundary abuts the public road.
- 1.4. The topography of the land in which the site is located slopes from the north and west towards the east of the site with the south-eastern corner being the highpoint. There is a drain c. 70m from the northern boundary of the land.
- 1.5. While the area is predominantly agricultural in nature, there is a dwelling to the north-east of the site and dwellings on the opposite side of the N55.

## **2.0 Proposed Development**

- 2.1. The proposal comprises of the following:
  - Construction of a part single, part two-storey dwelling and a domestic garage.
  - O'Reilly Oakstown Treatment system (BAF 8PE) and polishing filter.
  - Entrance boundary walls including piers.

- 2.2 In response to the Planning Authority's request for further information the applicants revised the design and location of the proposed development.
- 2.3 The updated design included a dwelling with an internal area of c. 281m<sup>2</sup> and a maximum height of c.6.94m. The proposed dwelling would have a part stone finish and a part smooth plaster finish with a slate roof.
- 2.3 The proposed garage would have an internal area of c. 62m<sup>2</sup> and a maximum height of c. 5.9m and would have a part stone finish and a part smooth render finish.
- 2.4 The location of the proposed O'Reilly Oakstown Treatment system (BAF 8PE) and polishing filter was altered to take account of the design changes as a result of the further information request and is located to the west of the proposed dwelling.
- 2.5 After submission of the further information, the response was deemed significant and revised public notices were submitted by the applicant.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1 The planning authority decided on 21<sup>st</sup> February 2025 to grant planning permission for the proposed development subject to 10 conditions. The conditions are standard.

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

#### **3.2.1. Planning Reports**

- 3.2.2. There are two planning reports on file. The first planning report dated 16<sup>th</sup> October 2024. The first area planner report notes that the subject site is located within a 'stronger rural area' and that the applicants have demonstrated a genuine rural housing need and therefore would comply with objective SRA01 of *the Cavan County Development Plan 2022-2028*. Notwithstanding this the area officer outlined concerns relating to the design, scale, and location of the proposed development on site. The area planners report also notes the concerns outlined in a submission from Transport Infrastructure Ireland with regard to access to the subject site being at a variance to official policy with respect to the control of development on or affecting the national road network as outlined in the document 'Spatial Planning and National Roads

Guidelines for Planning Authorities (2012). Concerns were also raised with respect to visibility from the vehicular access point. Further information was requested for the applicant to respond to these issues.

### 3.2.3. Other Technical Reports

3.2.3.1 The area planners report refers to internal referrals received from the following:

**MD Office:** Report dated 17/9/24 outlining no objections and no conditions.

**Road Design Office:** Report dated 16/10/24 requesting further information with respect to details to demonstrate that the proposed development would not have a detrimental impact on the capacity, safety or operational efficiency of the existing National N55 road, the applicants were advised to have regard to the TII submission and the document Spatial Planning and National Roads Guidelines. The applicants were also requested to provide a sightline drawing, including dimensions that demonstrate that the required visibility splays in both directions comply with the TII publication DN-GEO-03060.

### 3.2.3.2 Prescribed bodies

**Transport Infrastructure Ireland:** Report dated 30/8/24 stating that the proposal is at a variance with official policy in relation to control of development on/ affecting national roads as outlined in Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as the proposed development would by itself, or by the precedent would adversely affect the operation and safety of the national road network. Section 2.5 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) states that the policy of the planning authority will be to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmph apply. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.

### 3.2.4 Further information

3.2.4.1 Further information was received on 16/1/25 and included the following:

- Cover letter from O'Neill O'Reilly and Associates, including sightline drawings and a detailed response to concerns relating to the impact of the proposed development on the operational capacity and safety relating to the N55.
- Revised plans, elevations, and sections prepared by O'Neill O'Reilly and Associates.
- An updated site layout plan prepared by O'Neill O'Reilly and Associates.

3.2.4.2 Cavan County Council deemed that the information provided was significant and that the application was required to be readvertised. In this respect the revised statutory notices were received by the Planning Authority on 27/1/25.

3.2.4.3 The second planning report on file is dated 19/2/25. This report comprised of an e-mail and considered the applicant's response to the further information request. The area planner was satisfied that the applicant's response to the further information request was acceptable and recommended that planning permission should be granted.

#### 3.2.4.4 Further Information Technical reports

**MD Office:** Report dated 30/1/25: Response by way of email, stating that the applicants have shown that there is clear visibility in each direction at the entrance to the proposed development and that the MD Office have nothing further to add.

**Road Design Office:** Report dated 10/2/25 noting the applicant's response to the further information request. The response states that it is the policy of the planning authority to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads and that the application is considered to be at a variance with that policy. The response also references the TII submission. The Roads Design Office recommends that planning permission be refused.

### 3.3. Further Information Prescribed Bodies

**Transport Infrastructure Ireland:** Report dated 30/1/25 stating that the proposed development would create an adverse impact on the national road network where the maximum speed limit applies. The national policy seeks to avoid the creation of additional access points from new developments or the generation off increased traffic

from existing accesses to national roads of speed limits greater than 60kmph. The proposal would endanger public safety by reason of traffic hazard and obstruction of road users due to the extra traffic generated. The proposal would bring additional traffic movements from day-to-day occupation, patterns of activity and trips generated by other services. Significant Government funding has been invested to improve and upgrade the N55 at this location to ensure the safety and maintenance of this important national road. The proposed development would set an inappropriate precedent for proliferation of such developments at locations where significant Government funding has been invested to improve the use and safety of the national road network.

## **4.0 Planning History**

4.1 There is no planning history associated with the appeal site.

### **Adjacent site (Family Home)**

**Reg. Ref. 23/28.** Application to retain front porch. Retention planning permission granted, subject to conditions.

**ABP Ref. 02.JP0047:** Approval granted for the N55 Corduff to South of Killydoon Realignment, Section B, subject to conditions.

The third-party appeal highlights a number of cases as outlined below:

**ABP-320604-24** (Inishroo, Kinvara, Co. Galway).

**ABP-316000-23** (Toberaniddaun, Lissycasey, Co. Clare).

**ABP-314435-22** (Gorteens, Castleblayney, Co. Monaghan).

**ABP-313834-22** (Lissycasey, Ennis, Co Clare) \*.

**ABP-312632-22** (Crossea North, Edgeworthstown, Co Longford).

**ABP-312404-22** (Carrigaline, Rathmore Post Office, Co. Cork)

Each of the applications outlined above were refused planning permission for reasons including the access to the individual sites comprise of intensification of the use of an existing entrance which has direct access from a National Secondary Road which

conflicts with the 'Spatial Planning and National Roads Guidelines for Planning Authorities 2012.

\* ABP-313834-22 was a split decision where permission was granted for the retention of the demolition of derelict building but permission was refused for the construction of a dwelling as the proposal would comprise of intensification of the use of an existing entrance which has direct access from a National Secondary Road which conflicts with the 'Spatial Planning and National Roads Guidelines for Planning Authorities 2012.

The first party response to the third-party appeal highlights a number of cases as outlined below:

**Reg. Ref. 14/178 / PL02.244001** (Drumhawnagh, Loughduff, Co Cavan).

In the case of **Reg. Ref. 14/178 / PL02.244001**, planning permission was initially granted by Cavan County Council. This decision was the subject of a third-party appeal to An Bord Pleanála where the decision of the County Council was upheld. In this case, the Board considered the scale and nature of the farm holding whereby alternative access arrangements were not possible and the applicant's involvement in farming the land.

**Reg. Ref. 21/758** (Cartronfree, Kilcogy, Co. Cavan).

In the case of **Reg. Ref. 21/758** permission was granted for a dwelling which has access from a private laneway which in turn have access from the N-55.

**Reg. Ref. 22/310 / ABP-314873-22** (Tullygullin, Kilcogy, Co. Cavan).

In the case of **Reg. Ref 22/310 / ABP-314873-22** planning permission was initially refused by Cavan County Council. This decision was the subject of a first party appeal to An Bord Pleanála where the decision of the County Council was overturned, and permission was granted. In this case, the Board considered that the location of the proposed development within the family loan holding that the proposed development would not result in the creation of a road safety hazard and would not have a detrimental impact on the efficient operation of the N55.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The *Cavan County Development Plan 2022-2028* is the operative plan for the area. The proposed development site is located within a rural area identified as being a 'stronger rural area.' Relevant policies and objectives include:

**RHO1:** which seeks to ensure that rural generated housing needs should be accommodated in the locality in which they arise and where the applicant comes within the development plan definition of need.

**WTR01:** which seeks to ensure that proposals involving the installation of an on-site wastewater treatment system are in accordance with the requirements of the 'EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses,' (2009) or any subsequent Code of Practice which supersedes it.

**AS03:** which seeks to restrict the creation of additional access points from new developments or the generation of increased traffic from existing accesses to national roads, to which speed limits greater than 60kmph apply.

#### **Other Relevant Planning Policy:**

### 5.2 Spatial Planning and National Road Guidelines 2012

5.2.1 The Spatial Planning and National Road Guidelines 2012 seeks to maintain the efficiency, capacity, and safety of the national road network. Paragraph 1.5 states that – *'the creation of new accesses to and intensification of existing accesses to national roads gives rise to the generation of additional turning movements that introduce additional safety risks to road users. Therefore, from a road safety perspective, planning authorities, the NRA, road authorities and the Road Safety Authority must guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50-60 kmh apply as part of the overall effort to reduce road fatalities and injuries'*.

Paragraph 2.5 states that in respect of lands adjoining National Roads to which speed limits greater than 60 kmh apply: *'the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of*

*increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.'*

5.2.2 Section 2.6 of these guidelines sets out exceptional circumstances a less restrictive approach may apply. These include (inter alia), (1) lightly trafficked (below 3,000 AADT) sections of national secondary routes, (2) There is no suitable alternative non-national public road access available and (3) The development otherwise accords with the development plan.

### **5.3 National Planning Framework (NPF)**

#### **5.3.1 Revised National Planning Framework (NPF)-February 2025**

5.3.2 National Policy Objective (NPO) 28 states it is an objective to 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 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.

### **5.4 Section 28 Guidelines**

5.4.1 Sustainable Rural Housing Guidelines for Planning Authorities, 2005

5.4.2 The subject site is located within an 'Stronger Rural Area' as identified in Map 1: Indicative Outline of the NSS rural area types in the Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that in these areas the objective should be to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and wider rural areas.

5.4.3 Circular Letter SP 5/08 was issued after the publication of the guidelines on 30th September 2009. The letter states that all planning applications for houses in rural area, regardless of where the applicant comes from, or whether they qualify under

specific criteria, must continue to be determined on the basis of proper planning and sustainable development of the area, in accordance with Development Plan policies regarding overarching environmental concerns, including the protection of natural assets, landscape, siting and design, traffic safety, etc.

5.4.4 EPA Code of Practice Domestic Wastewater Treatment Systems, population equivalent of less than 10, 2021. This document provides guidance on the site characterization, design, operation, and maintenance of domestic wastewater treatment systems.

## **5.5 EU Water Framework Directive.**

5.5.1 The purpose of the EU Water Framework Directive is an initiative aimed at improving water quality throughout the European Union. The Directive was adopted in 2000 and requires governments to take a new approach to managing all their waters; rivers, canals, lakes, reservoirs, groundwater, protected areas (including wetlands and other water dependent ecosystems), estuaries (transitional) and coastal waters.

5.5.2 An Coimisiún Pleanála and other statutory authorities cannot grant development consent where a proposed development would give rise to a deterioration in water quality.

## **5.6 Natural Heritage Designations**

5.6.1 There are no European designated sites within the immediate vicinity of the site. The nearest designated site are the Lough Oughter and Associated Loughs SPA (site code 004049) and the Lough Oughter and Associated Loughs SAC (Site code 000007) which is located c. 8.3-8.5km north of the site.

5.6.2 Lough Sheelin SPA (site code 004065) is c. 10.2 km to the south-east of the site and the Lough Kinale and Derragh Lough SPA (site code 004061) is located c. 11.7km to the south of the site. In addition to this Moneybeg and Claireisland Bog SAC (Site

Code 002340) is located c. 12.3km to the south-east and Derragh Bog SAC (Site Code 002201) is located c. 13.6km to the south-west of the appeal site.

5.6.3 The Lough Gowna pNHA is located c. 2.5km to the southwest of the site.

## 5.2. EIA Screening

5.2.1 See completed Appendix 1 - Forms 1 and 2 below.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A third party appeal has been received from Transport Infrastructure Ireland. The grounds of appeal are extensive but can be summarised as follows:

#### *National and Regional Policy*

- The proposed development would jeopardise the benefits in investment made in the national road network. Strategic Outcome 2 of the National Planning Framework seeks to maintain the storage capacity of and safety of the national roads network.
- The proposed development would not safeguard road user safety. Chapter 7 of National Development Plan 2021-2030 set out the key priority of maintaining Ireland's existing national road network to a robust and safe standard for users.
- The Spatial Planning and National Road Guidelines 2012 state that the policy will be to avoid the creation of additional access points of the generation of increased traffic from existing accesses to national roads for sites adjoining national roads where speed limits greater than 60kmh apply.
- Regional Policy Objective RPO6 of the Western Regional Assembly Regional Spatial and Economic Strategy outlines that the capacity and safety of the region's land transport networks will be managed and enhanced to ensure their optimal use.
- The Road Safety Authority's Our Journey Towards Vision Zero Ireland's Government Road Safety Strategy 2021-2030 indicates that the 'Safe System'

approach emphasises the need to focus on all elements of the road traffic safety system to successfully improve road safety.

- The provision of an additional house accessing the N55 by means of an access to a private access lane, regardless of the housing circumstances of the applicant will bring about additional vehicular turning movements resulting in the intensification of access onto an off the N55, contrary to the Spatial Planning and National Road Guidelines 2012.
- Road safety improvements provided as a result of Exchequer funding for recent N55 Improvement Schemes such as the N55 Corduff to South of Killydoon Realignment Scheme will be offset and undermined by increased turning movements and intensification of use of the private laneway access onto this heavily trafficked and high-speed section of national road.
- The decision of Cavan County Council conflicts with the national and regional objectives of official policy related to national roads protection, as well as ensuing high capacity for inter-regional travel and road safety of all users.

#### *Local Development Policy*

- Section 12.13 of the *Cavan County Development Plan 2022-2028* aims to avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses to national roads for single houses, to which 60kmh apply.
- The *Cavan County Development Plan 2022-2028* does not include any agreed exemptions where a less restrictive approach to the control of development accessing national roads may apply in accordance with DoECLG Guidelines.
- The assessment undertaken did not demonstrate that the following Development Plan Objectives were considered: NR01, NR02, NR04, NR05, NR06.
- Granting permission would set an undesirable precedent for similar developments on recently improved sections of the N55 and similar localities nationwide.

#### *Road safety*

- Restricting direct access and intensification of use of direct accesses to the high-speed national road network can and does contribute to a reduction in collisions and fatalities.
- From a road safety perspective authorities must guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50-60kmh apply as part of the overall effort to reduce road fatalities and injuries.
- Controlling the extent of direct accesses to national road at high-speed locations and turning movements associated with such is a critical element in meeting road safety objectives in accordance with official policy.
- The existing private access has received the benefit of Government expenditure by significant improvements to the existing entrance.
- A new house will increase the number vehicular movements and the argument that the applicant already lives on the lane is not relevant.
- Precedent referred to by the applicant (02.244001, March 2015) not relevant as considerable time has lapsed since this decision and there is an increased recognition in national and regional policy with respect to safeguarding of national road capacity.
- Reasonable to exercise great caution and conservatism in the assessment of any development proposals impacting on the safe operation of strategic national roads. This is especially critical where routes have been improved to redress existing legacy issues.

#### *Protecting Public Investment*

- Priority to ensure adequate maintenance of the national road network in order to protect the value of previous investment. TII seeks to ensure that official national objectives are not undermined and that the benefits of investments made in the national road network are not jeopardised.
- The decision of Cavan County Council conflicts with National, Regional and Local planning policy and also undermines the significant Government

investment which has been made and continues to be made in improving the safety and connectivity provided by the N55.

#### *Planning Precedent*

- Precedent that would be created by granting permission would endanger public safety by reason of traffic hazard due to the additional traffic, including turning movements that would be generated onto the N55 at a location where an 80kmh speed limit applies.

## **6.2. Applicant Response**

6.2.1 A response has been received from O'Neill O'Reilly and Associates on behalf of the applicant. The response includes a letter from the applicants. The agent's response can be summarised as follows:

- The proposed development strictly adheres to the *Cavan County Development Plan 2022-2028* and aligns with national policy objectives for rural housing, specifically RH01 which confirms the right to reside in one's community where local need exists. The applicant has lived and worked on the family farm all of their lives.
- The proposed development is situated on the family farm, less than 70m from the applicant's parents' home, reducing the necessity for frequent commutes and enabling continued support for the family farming enterprise and care for ageing parents.
- No new access to the N55 will be created. The existing entrance meets TII safety standards.
- Traffic analysis demonstrates that there will be a net reduction in vehicular movements as the applicant would have to commute to the farm multiple times a day if they lived away from the property.
- Sightlines survey confirms visibility in both directions of over 215m at the entrance.
- The entrance has been improved as a result of investment under the N55 Corduff to Killydoon Realignment Scheme.

- The reduction in traffic movements as a result of onsite residency and farming operations supports the longevity and safety goals of the upgraded road.
- No erosion or piecemeal degradation of the road improvements, the proposal represents the kind of context-sensitive development envisaged in rural policy.
- The applicant is embedded in the local community, specifically in the local and county GAA scene.
- Following further information, the design and location of the proposed dwelling was revised. The revisions reduced the visual impact of the proposal, improved environmental drainage, and enhanced the accessibility / reduced construction related disruption.

The applicants letter outlines the following case:

- The site is on the family farm, a residence at this location is essential for farming, personal and professional reasons. The applicant is the only member of the family that works the farm on a daily basis.
- The number of vehicular turning movements would be reduced by 14 trips per week.
- The applicants have satisfied policy RH01.
- The existing access meets TII publication standards, this is documented by the Council's technical and planning reports.
- In granting permission Cavan County Council would have considered road safety considerations.
- Unfair that the applicants could or would not benefit from road improvements as every other road user does.
- Number of instances where planning approval has been granted for developments on the N55 where the necessary safety concerns and road safety considerations have been complied with (refer to planning history in Section 4.1 above).
- The applicant and their partner have deep-rooted connections to the area through family, sporting, professional and personal commitments.
- If permission is not granted it will negatively affect the applicant's ability to actively run the family farm.

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

6.3.1 Response dated 4/4/25 stating the reasons for the decision are articulated in the report of the Senior Planner and the Board is requested to uphold the decision of the Planning Authority.

### **6.4. Observations**

6.4.1 There are no observations on file.

### **6.5. Further Responses**

6.5.1 None on file.

## **7.0 Assessment**

7.1. Having examined the appeal details and all other documentation on file and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development / Compliance with Rural Housing Policy
- Traffic issues
- Siting and Design
- Wastewater Management / Water Framework Directive
- Flooding
- Appropriate Assessment

### **7.2 Principle of Development**

7.2.1 The appeal site is within a rural area. Appendix 21 of the Cavan County Development Plan 2022-2028 identifies that the land is within a Stronger Rural Area. Development plan objective SRA 01 states that in stronger rural areas, rural generated, social, or economic housing needs will be facilitated, subject to good planning practice in matters of location, siting, design and the protection of environmentally sensitive areas and areas of high landscape value. The objective further states that urban generated

housing needs will be directed to areas identified for housing in the adjoining towns and villages.

7.2.2 National Policy Objective (NPO) 28 of the Revised National Planning Framework 2025 is also pertinent to the appeal and it states that in rural areas that are not identified as being under urban influence the provision of single housing in the countryside is 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.

7.2.3 In this instance a supplementary rural housing application form has been provided, which states that both applicants have lived in rural areas of Co. Cavan. One of the joint applicants has lived (Aishling Sheridan) has lived at the subject property in Ballytrust, Loughduff, Co. Cavan for her entire life, on the family farm, and currently lives in the family home. I note that documentary evidence of the longstanding connection to the area has been provided as part of the application, including a letter from the Parish of Ballintemple, a letter from Mullahoran Central National School and a letter from Mullahoran LGFA, all of which attest to the strong links of both applicants to the area.

7.2.4 The Planning Authority accepted that a rural housing need had been demonstrated and, from the information available to me, I see no reason to question this. Objective SRA 01 states that rural generated, social, or economic housing needs will be facilitated, and, in this instance, I note that the applicant is proposing to build near the family home, on lands within the farm holding. It is also stated within the appeal document that one of the applicants (Aishling Sheridan) farms the land in partnership with her father. I am satisfied that compliance with SRA 01 and NPO 28 has been demonstrated and thus conclude that the proposal is acceptable in principle, subject to consideration of other relevant factors below.

### **7.3 Traffic issues**

#### *Intensification of use of an existing access*

7.3.1 TII are concerned that an additional house, using the same access will increase the number of traffic movements to and from the subject land. The applicants argue that the proposed development would not lead to a significant increase in traffic movements along the lane. One of the joint applicants lives in the site. If they were living away from the site, they would have to commute to the farm multiple times daily

to feed livestock, assist in calving and manage day to day operations, thus intensifying the use of the access. If allowed to live on site, any commuting trips would be eliminated, and this would offset the traffic movements generated by the additional dwelling.

7.3.2 Having considered the application material; I am of the opinion that the proposed development may lead to some additional traffic. This would apply at both the development and operational phase. However, I am satisfied that the levels of traffic would be modest and of a domestic nature.

7.3.3 If permission were not granted, the applicant would be required to commute to the site to assist in running the farm. In my opinion the levels of vehicular movements would be similar in both scenarios. Therefore, there would be no significant intensification of traffic movements.

#### *Sightlines*

7.3.4 Having been on site, I noted that the access to the land has been improved to a high standard as a result of recent road improvement works (N55 Corduff to South of Killydoon Realignment Scheme). The vehicle access to the land has a c.13m set back from the road and is paved.

7.3.5 The speed limit at this location is 100kmph and on the day of my site visit traffic levels on the road were moderate, with a mixture of vehicle types including cars, trucks, tractors, and busses.

7.3.6 Regarding sightline visibility along the N55, I have considered the sightlines shown in the applicant's response to Further Information, Appendix 4 of *the Cavan County Development Plan 2022-2028*, and the TII publication DN-GEO-03060. The applicant's further information response shows that a sightline of 215m can be achieved in both a northerly and southerly direction from the vehicular entrance. These sightlines would comply with the standards set out in Appendix 4 of *the Cavan County Development Plan 2022-2028* and the TII publication DN-GEO-03060 and as such is considered to be acceptable.

7.3.7 In addition to this, I note that the Councils engineering department states that there are clear vision lines in both directions at the entrance to the proposed development.

### *Exceptional circumstances*

7.3.8 Section 2.6 of the Spatial Planning and National Road Guidelines 2012 allows planning authorities to identify stretches of national roads where a less restrictive approach may be applied in the case of (inter alia) (1) lightly-trafficked (below 3,000 AADT) sections of national secondary routes, (2) There is no suitable alternative non-national public road access available and (3) The development otherwise accords with the development plan.

7.3.9 While this section of the N55 would not be lightly trafficked (AADT of 4,640-7,040, this figure is taken from the Planning Inspectors report for ABP Ref. 02.JP0047, 26<sup>th</sup> October 2017), in my opinion, exceptional circumstances do apply to the site in that there is no other suitable non-national public road accesses available to the appeal site. In addition to this, the proposed development would accord with provisions of the development plan. Therefore, I am satisfied that exceptional circumstances apply to the subject land.

### *Undermining of Public Investment*

7.3.10 I note that there has been significant public investment in the N55 Corduff to South of Killydoon Realignment Scheme. The road improvements included an upgrade to the entrance of the overall land. Given the relatively minor increase in modest level of traffic increase and the fact that the access to the overall site has been upgraded, I am satisfied that the proposed development would not undermine public investment.

### *Conclusion*

7.3.11 Having considered the above, and taking a balanced view, I am satisfied that no intensification of use of the vehicular access to the land at the N55 is likely to arise. I therefore conclude that the development is not at variance with policy in relation to control of development on/affecting national roads, as contained within Spatial Planning and National Roads Guidelines for Planning Authorities.

7.3.12 I note that both the first and third parties refer to a number of precedent cases in their submissions. However, as a rule all appeal cases should be assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specific of the proposed development.

## **7.4 Siting and Design**

- 7.4.1 Objectives RHD01 and RH08 seeks to ensure that new rural housing comply with the Design Guide for Single One-Off Houses within Cavan Rural Countryside with respect to Site Selection, House Design, Landscaping, Sustainability and Design Statement.
- 7.4.2 There is no specific landscape protection for this area outlined in the *Cavan County Development Plan 2022-2028*. In addition to this, there are several one-off dwellings on both sides of the N55. I am satisfied that the proposed dwelling would not be out of character with the area.
- 7.4.3 The proposed development would comprise of a part single storey, part two storey dwelling with a maximum height of c.6.94m. The finish materials include smooth plaster, stone, wood panelling and slates. At ground floor the dwelling would comprise of a kitchen / dining /living room, a sitting room, utility room and two bedrooms. The first-floor level would comprise of 2 double bedrooms (including storage areas) and a bathroom.
- 7.4.4 I note the topography site rises from the west and north of the site to the east and south-east. The gradient of the land is used in the design of the proposed dwelling, with the two-storey element (western side) at the lower point of the site and the single storey element (eastern side) being at the higher point of the site. In overall terms, while the dwelling would be at a slightly elevated position relative to the road, I am satisfied that the proposed dwelling would not be unduly prominent or obtrusive. The scale of the proposed dwelling is appropriate to its setting.
- 7.4.5 Notwithstanding this, I am of the opinion that proposed fence on the western boundary of the land should be replaced with a hedgerow or screen planting to match the northern, eastern, and southern boundary. This would ensure a unified approach to the boundaries and would provide screening from the road which would assist the dwelling to assimilate into the surrounding area. This matter could be dealt with by way of condition if the Board is of a mind to grant planning permission.
- 7.4.6 The proposed garage is located to the north-east of the dwelling. The garage would have a height of c. 5.9m with a combination of a smooth render and stone finish. The garage would have an area of c. 62m<sup>2</sup>. I am satisfied that the location and design of the proposed garage is acceptable.

## **7.5 Wastewater Management / Water Framework Directive**

- 7.5.1 I refer the Bord to the Site Characterisation Form which was submitted to the Local Authority. This shows that the percolation tests carried out on site suggests that the soils and subsoils inherent on the site have good surface and sub-surface percolation characteristics and is suitable for a secondary system and soil polishing system.
- 7.5.2 The form shows that soil is a silt / clay at surface and a silt/ clay intermixed with stone at subsurface. No bedrock encountered in the trial holes and groundwater was encountered at a depth of 1.7m. The percolation tests yielded a sub-surface T value of 51.23, this would comply with the standards set out in Table 6.4 of the EPA Code of Practice: Domestic Wastewater Treatment Systems (Population Equivalent  $\leq 10$ ) 2021 for secondary treatment systems.
- 7.5.3 In terms of separation distances, the proposed soil polishing filter area is located c. 13m to the west of the proposed residential dwelling and down gradient of it. The site Characteristics Form details that minimum separation distances will be met and exceeded in all instances. However, as previously noted, the design and location of the proposed development was amended by way of further information. This included the location of the secondary system and soil polishing system. The site Characteristics Form was not updated to take the updated location and design into account.
- 7.5.4 The site plan submitted with the applicant's Further Information response shows that the tank would be set back c.4.5m from the proposed dwelling and not 7m as required by EPA code. The distance of 7 metres is required to help reduce the risk of unpleasant smells, protects occupants' health, and prevents any potential damage to the dwelling. It also ensures there's enough room for safe operation and maintenance of the septic system. While I note the importance of the set back of the tank from the dwelling, I am satisfied that this matter could be dealt with by way of condition requiring compliance with the EPA Code of Practice: Domestic Wastewater Treatment Systems (Population Equivalent  $\leq 10$ ) 2021, if the Board is of a mind to grant planning permission.
- 7.5.4 Water would be supplied by the Erne Valley Group Water Scheme. There is no private well proposed on site. There is a proposed bored well connection from the eastern boundary of the land.

7.5.5 Regarding the Water Framework Directive, I note that the existing waterbodies in the vicinity of the site are located within the Erne\_ 050 river water body catchment. In proximity to the appeal site, this waterbody is classified as good ecological status. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/agriculture>). This is in accordance with the requirements of the Water Framework Directive.

7.5.6 Having reviewed the Geological Survey Ireland's GIS Mapping, I note that the proposed wastewater treatment system has been sited over a poor-quality Aquifer with a high vulnerability. However, having regard to the soil depth of 1.7m as shown in the Site Characterisation Form, I am satisfied that the effluent will be suitably treated before reaching the aquifer.

## **7.6 Flooding**

7.6.1 Given the elevated location of the appeal site, I am satisfied that there are no flooding issues associated with the proposed development.

## **8.0 AA Screening**

8.1. I have considered the nature and scale of the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development comprises a single dwelling house and wastewater treatment system and percolation area as described in section 2 of this report.

8.2 The subject site is not located within or adjacent to a European Site. There are no European designated sites within the immediate vicinity of the site. The nearest designated site are the Lough Oughter and Associated Loughs SPA (site code 004049) and the Lough Oughter and Associated Loughs SAC (Site code 000007) which is located c. 8.3-8.5km north of the site. In addition to this, Lough Sheelin SPA (site code 004065) is c. 10.2 km to the south-east of the site and the Lough Kinale and Derragh Lough SPA (site code 004061) is located c. 11.7km to the south of the site. In addition to this, Moneybeg and Claireisland Bog SAC (Site Code 002340) is located c. 12.3km to the south-east and Derragh Bog SAC (Site Code 002201) is located c. 13.6km to the south-west of the appeal site. The Lough Gowna pNHA is located c. 2.5km to the southwest of the site.

8.3 There is no hydrological link between the subject site and the European sites.

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 effect on a European Site.

8.5 This determination is based on:

- Small scale and domestic nature of the development
- Distance from European sites.
- No hydrological connections to the European sites.

8.5 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.

8.6 Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9 Recommendation**

9.1 I recommend that planning permission be granted subject to the conditions below.

## **10 Reasons and Considerations**

10.1 Having regard to the policy and objectives as set out in the *Cavan County Development Plan 2022 – 2028* and the Spatial Planning and National Road Guidelines 2012, the absence of an alternative access from the N55, the applicants currently being employed in on the farm, the scale and design of the proposed development, adjoining a farmyard complex, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to a significant increase in traffic movements or intensification of an existing access, would be acceptable in terms of traffic safety and would not seriously the amenities of the area or property in the vicinity of the site.

## **11 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application dated 23 August 2024 as

amended by details submitted on the 16<sup>th</sup> of January 2025 and 27<sup>th</sup> January 2025, 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 development shall be amended as follows:

(a) The fence shown on the western boundary of the land shall be replaced with a hedgerow to match the northern, eastern, and southern boundaries.

**Reason:** In the interests of the protection of the visual amenity of the area

3. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicants, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicants shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation. This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately

restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

4. The proposed wastewater drainage system shall be in accordance with the standards and separation distances set out in the document entitled "Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

**Reason:** In the interest of public health.

5. a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to surrounding properties.

**Reason:** In the interest of traffic safety and to prevent pollution.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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

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

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

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Ronan Murphy  
Planning Inspector

23 June 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	<b>ABP-322102-25</b>
<b>Proposed Development Summary</b>	Construction of house, sewerage treatment system and percolation area together with all associated site works.
<b>Development Address</b>	Ballytrust, Loughduff, Co. Cavan.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project.' Proceed to Q2.  <input type="checkbox"/> No, no further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	Class 10(b)(i) of Part 2 (dwelling units)  Class 10(dd) of Part 2 relating of private roads in the form of driveway
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Class 10(b)(i) of Part 2 (dwelling units) - Less than 500 dwelling units.</p> <p>Class 10(dd) of Part 2 relating of private roads in the form of driveways - Private Road would not exceed 2000m in length</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	<b>ABP-322102-25</b>
<b>Proposed Development Summary</b>	Construction of house, sewerage treatment system and percolation area together with all associated site works.
<b>Development Address</b>	Ballytrust, Loughduff, Co. Cavan.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its residential type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The development is situated in a rural area with some residences located in proximity to the site including the existing family dwelling c. 70m to the south of the area of the proposed dwelling.</p> <p>The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.</p>
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters,	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and

magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects, and opportunities for mitigation).	spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
<b>There is no real likelihood of significant effects on the environment.</b>	<b>EIA is not required.</b>
<b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b>	No
<b>There is a real likelihood of significant effects on the environment.</b>	No.

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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

(only where Schedule 7A information or EIAR required)