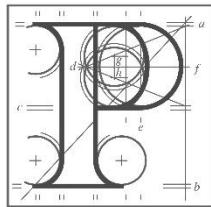


# Inspector's Report



An  
Coimisiún  
Pleanála

**ACP-323802-25**

## Development

Point of Detail under Section 34(5)(a) of the Planning and Development Act, 2000 (as amended), regarding condition no. 3 of planning ref. 2460586

## Location

Carrowduff and Garbally,  
Taughmaconnell, Ballinasloe, Co.  
Roscommon.

## Planning Authority

Roscommon Co. Co.

## Planning Authority Reg. Ref.

2460586

## Referrer

Aine Finneran

## Type of Application

Point of Detail Referral

## Type of Appeal

First Party

## Inspector

Conor McGrath ADP

## 1.0 Introduction

This report relates to a referral under s.34(5)(a) of the Planning and Development Act 2000, as amended, in respect of condition no. 3 of planning authority reference 2460586.

S.34(5) states as follows:

(5) *The conditions under subsection (1) may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development and, accordingly—*

(a) *where for that purpose that person has submitted to the planning authority concerned such points of detail, then that authority shall, within 8 weeks of those points being so submitted, or such longer period as may be agreed between them in writing, either—*

(i) *reach agreement with that person on those points, or*

(ii) *where that authority and that person cannot so agree on those points, that authority may—*

(I) *advise that person accordingly in writing, or*

(II) *refer the matter to the Board for its determination,*

*and, where clause (I) applies, that person may, within 4 weeks of being so advised, refer the matter to the Board for its determination,*

*or*

(b) *where none of the events referred to in subparagraph (i) or in clause (I) or (II) of subparagraph (ii) occur within those 8 weeks or such longer period as may have been so agreed, then that authority shall be deemed to have agreed to the points of detail as so submitted.*

## 2.0 Site Location and Description

2.1. The subject site is located at Carrowduff and Garbally, Taughmaconnell, Ballinasloe, Co. Roscommon. The site is located between Athlone, c.11km to the northeast and Ballinasloe 10km to the southwest. The site lies on the eastern side of a local road running approximately north-south. Ground levels in the area are undulating, while levels on the site generally rise from the public road upwards to the east / southeast. The site has a stated area of 0.4921ha, is regular in shape, and comprises part of a larger field. Ground levels shown on the site layout plans range from c.59.5m inside the roadside boundary to c.64m in the southeastern corner of the site.

### 3.0 Proposed Development

3.1. The subject development comprises the erection of a single-storey dwelling house, detached garage, construction of an effluent treatment system and ancillary site works. The dwelling shown on the original site layout plans was set back approx. 37.956m from the proposed set-back roadside boundary. The finished floor level for the dwelling was indicated to be 61.500, while the proposed detached garage was sited to the rear on contours 62-62.5m with a ffl of 61.8. At Further Information and Clarification of Further Information Stages, the planning authority sought revisions to the proposed finished floor level of the dwelling.

### 4.0 Planning Authority Decision

#### 4.1. Decision

The planning authority decided to grant permission for the proposed development subject to condition, including condition no. 3, as follows:

*The development shall be carried out in accordance with site layout plan Drg. No. 6C (Titled Scenario 1) and received 25<sup>th</sup> April 2025 except where the conditions hereunder specify otherwise. For the avoidance of doubt, the stated finished floor level of 61.30m on the site layout plans submitted on 25<sup>th</sup> April 2025 is not permitted. The finished floor level of the dwelling house shall be 60.5m*

*Prior to the commencement of development, a revised site layout plan shall be submitted for the written agreement of the Planning Authority to:*

- a) *Reflect the foregoing and clearly indicate the finished floor level of the dwelling corresponding to its revised location on the c.60.5m contour line;*
- b) *Show the proposed garage repositioned forwards (northwest) by circa 15m from the location proposed on site layout Drawings No. 6C received on 25<sup>th</sup> April 2025.*

*The development shall thereafter be carried out in accordance with agreed plans.*

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

In considering the planning application the planning authority had sought Further Information and Clarification of Further Information in relation to

- Rural housing need.
- The siting of the house and garage on the site.
- The design and layout of the wastewater treatment and disposal system.

The request for Further Information included the following:

2. The planning authority has concerns in relation to the siting of the proposed development with a finished floor level in excess of 2m above the adjoining road level. Please submit a revised site layout plan depicting proposals to relocate the dwelling forward on site to a lower contour equivalent to a reduction in ffl of no less than 1m, without the requirement for excessive site manipulation. The landscaping scheme shall be amended accordingly and is required to provide sufficient screening to help assimilate the development at this revised location.

FI Response:

The applicant's response to the request for further information on 12/03/2025 presented the case for not relocating the dwelling as requested. The ffl of the house and garage were reduced to 61.3m and 61.5m respectively as a compromise.

The request for Clarification of Further Information included the following:

1. The proposals submitted in response to item 2 of the initial request for further information (which required proposals to relocate the dwelling forward on the site to a lower contour equivalent to a reduction in finished floor elevation of no less than 1 metre, without the requirement for excessive site manipulation) are insufficient. Whilst some modifications to the location of the garage and the ffl of the dwelling have now been proposed, it is not considered that these modifications are sufficient, and the development as proposed would not result in a development which respects the natural contours of the site and would require excessive excavation. In this regard, please refer to item 2 of the request for further information and submit a proposal, in the form of a revised

contoured site layout plan, to relocate the dwelling forward on the site to a lower contour level equivalent to a reduction in finished floor elevation of no less than 1 metre, as previously requested. In conjunction with this, please submit an accompanying cross section and amend the landscaping scheme accordingly to provide sufficient screening to help assimilate the development at this revised location.

**Clarification of Further Information Response:**

The applicants response to the Clarification request on 25/04/25 noted that the request of the planning authority related only to the house and not to the garage. Options to meet the requirements of the planning authority request were presented. Concerns were raised with regard to separation of the relocated dwelling from the front roadside boundary.

## **4.2. Planning Authority Reports**

### **4.2.1. Planning Reports**

The development was screened out for EIA and AA. The site is located in an Rural Area Policy Zone A, Areas under Urban influence. The site rises to the rear to c 4m above road level and the dwelling would have a ffl 2.3m above road level which would break the skyline. While the visual implications may be localised, there is scope within the site to relocate the dwelling to a lower level. Further information recommended.

**Following receipt of further information:**

The Planning authority was satisfied that a rural housing need had been demonstrated. The dwelling was not relocated to reduce the finished floor level by 1m as requested but has proposed a reduction of 200mm and to bring the garage forward. This reduction is achieved by further excavation which is not encouraged. Whilst a condition could be applied requiring repositioning of the dwelling, the FI response refers to impact on mature trees and a further opportunity to address the PA concerns was therefore afforded. Further information on the layout of the percolation area was sought.

Following Receipt of Clarification of Further Information:

The applicant has relocated the dwelling forward on site from the c.61.5 to 60.5m contour line as requested. This modification will reduce potential visual impacts, however, the layout plan still denotes the finished floor level of the dwelling to be 61.3m, the same as previously proposed in the further information submission. In the event permission is granted a condition will be applied to submit a revised layout denoting the correct finished floor level as per the contour study of the site.

#### 4.2.2. Other Technical Reports

Environment: No concerns following receipt of Clarification further information.  
Conditions recommended.

#### 4.3. Prescribed Bodies

No submission received.

### 5.0 Relevant Planning History

None noted.

### 6.0 Policy Context

#### 6.1. Roscommon County Development Plan 2022 - 2028

Section 3.9 deals with Rural Housing. The site is located within Rural Policy Zone A – Areas Under Urban Influence (Table 3.1). Those seeking permission must demonstrate an economic or social need to live in these areas.

The Landscape Value is identified as Moderate.

#### 12.7 Rural House Design Considerations

Roscommon County Council's County Roscommon Rural Housing Design Guidelines provides guidance on siting and design principles for rural dwellings in the countryside. Rural dwellings are required to be designed to a high standard, to complement the character of the landscape, and to contribute in a positive manner to

the built heritage of the county. Proposals for rural houses shall demonstrate adherence to the principles outlined in the County Roscommon Rural Housing Design Guidelines, and should follow the design process as outlined in the guidelines.

Policy PPH 3.13 Facilitate single houses in rural areas subject to appropriate siting and design criteria, including demonstration of adherence to the principles set out in the County Roscommon Rural Design Guidelines. In addition, in the case of proposals for single houses in defined Areas under Urban Influence, applicants will be required to demonstrate a social or economic link (as per Table 3.2) to the rural area in which they proposed to build.

## **6.2. Relevant National or Regional Policy / Ministerial Guidelines**

### **6.2.1. Development Management Guidelines:**

Section 7.3 sets out basic criteria for conditions, including whether the condition is:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise;
- Reasonable

7.3.4 Every condition should be precise and clearly understandable. It must tell the developer from the outset exactly what he or she has to do, or must not do.

### **7.9 Conditions requiring matters to be agreed**

In some cases, it may be considered unreasonable when granting a permission to require the applicant to go through the statutory application procedure again in relation to some detail of the proposed development and, to obviate this, a practice has developed of using a form of condition which requires that the matter shall be agreed with the planning authority. However, such conditions should be avoided in cases where the matters involved are of a fundamental nature or such that third parties could be affected.

Care needs to be taken in the wording of these conditions; for example, some minor details (e.g. type of paving) will not need to be agreed before development commences but could be negotiated during the construction phase.

### 6.3. **Natural Heritage Designations**

Castlesampson Esker SAC (pNHA) lies approx. 220m northeast of the subject site.

## 7.0 **EIA Screening**

This case relates to a first party referral of a point of details relating to condition no. 3 of the planning authority decision to grant permission. Having regard to the nature of the referral and the provisions of s.34(5), I conclude that the proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## 8.0 **Compliance submissions**

8.1. Following the final grant of permission on 26/06/2025, the applicants made a submission to the planning authority on 30/07/2025 in respect of condition no. 3. The submission noted the following points:

- The relocated position of the garage required under condition no. 3 reflects that proposed by the applicant at FI stage. The height of the garage is 5.064m and the height of the house is 4.624 – 5.329m.
- Submissions at clarification stage disproved concerns regarding excessive excavation on the site.
- If the location of the garage is acceptable in landscape terms, then the position of the house could not be an issue as the front building line is 10m forward of the garage and is at a lower level.
- The floor level of the garage was not conditioned. It could be placed at 61.3m as previously proposed, whereas the house would be at 60.5m.

- A revised site layout plan was submitted for agreement.
- The requirement to place the house on the 60.5m contour is a nonsense and the wording of the condition could have been improved.

The revised layout plan showed the proposed dwelling with a finished floor level of 61.3m. The garage is relocated forward on the site between contours 61.5m and c.62.25, however a ffl for the detached garage is not identified.

#### 8.2. The PA responded on 22/09/2025 as follows:

The submission in relation to Condition No. 3 of PD/24/60586 is not considered acceptable. A revised site layout plan has not been submitted showing the dwelling located to the circa 60.5m contour line and the finished floor level amended to correspond to its revised location or the garage repositioned forward by circa 15 metres on site.

### 9.0 The Referral

#### 9.1. The referral on behalf of the applicant, Aine Finneran, makes the following points:

- The requirement to place the house on the 60.5m contour is a nonsense, as this contour varies across the site.
- No finished floor level is specified in the condition for the garage which is to be relocated, resulting in a finished floor level of 61.8m.
- The height of the garage is 5.064m and the height of the house is 4.624m – 5.329m. There is no appreciable difference in height.
- If the garage can be placed in the position specified, there is no reason that the house cannot be placed at a similar level.
- The condition should have specified a distance from the front boundary and should have specified a floor level for the garage, such that it is impossible to reach an agreement.

- It has not been possible to reach an agreement on these matters. The reasons for siting the house as set out in submissions of 15<sup>th</sup> march, 16<sup>th</sup> April and 30<sup>th</sup> July are reasonable.
- The landscape is not subject to scenic protection and there is no established building line or other structures in the area, nor elevated views to be impacted.
- There is no potential for backland development and the preferred siting does not conflict with existing development.
- A house / garage set back from the roadway with landscaping will have less visual impact than a house located close to the roadside.
- The planning authority have failed to consider all relevant matters.

## 9.2. Planning Authority Response

No response from the planning authority has been received.

## 10.0 Assessment

10.1. This report relates to a referral under s.35(5)(a) of the Planning and Development Act 2000, as amended, in respect of condition no. 3 of planning authority reference 2460586.

S.34(5) states as follows:

*(5) The conditions under subsection (1) may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development and, accordingly—*

*(a) where for that purpose that person has submitted to the planning authority concerned such points of detail, then that authority shall, within 8 weeks of those points being so submitted, or such longer period as may be agreed between them in writing, either—*

*(i) reach agreement with that person on those points, or*

*(ii) where that authority and that person cannot so agree on those points, that authority may—*

*(I) advise that person accordingly in writing, or*

*(II) refer the matter to the Board for its determination,*

*and, where clause (I) applies, that person may, within 4 weeks of being so advised, refer the matter to the Board for its determination,*

This referral follows notification from the planning authority that the submission in compliance with condition no. 3 was not acceptable to the planning authority. The referral to the Commission under s.34(5)(a)(ii) was received within the relevant period.

The referral relates to points of detail which are to be agreed under condition no. 3 of the grant of permission. I note that the condition was not the subject of a first party appeal and that this referral is not itself an appeal of the condition or the wording thereof. The scope of matters before the Commission relate to the specific points of detail set out in the condition. The rationale for / merits of the condition is not a matter before the Commission.

Condition no. 3 states:

*The development shall be carried out in accordance with site layout plan Drg. No. 6C (Titled Scenario 1) and received 25th April 2025 except where the conditions hereunder specify otherwise. For the avoidance of doubt, the stated finished floor level of 61.30m on the site layout plans submitted on 25th April 2025 is not permitted. The finished floor level of the dwelling house shall be 60.5m.*

*Prior to the commencement of development, a revised site layout plan shall be submitted for the written agreement of the Planning Authority to:*

*a) Reflect the foregoing and clearly indicate the finished floor level of the dwelling corresponding to its revised location on the c.60.5m contour line;*

*b) Show the proposed garage repositioned forwards (northwest) by circa 15m from the location proposed on site layout Drawings No. 6C received on 25th April 2025.*

*The development shall thereafter be carried out in accordance with agreed plans.*

The matters to be agreed and open for determination by the Commission are limited in scope. Matters stated in the condition and which are not subject to agreement:

- The relevant site layout plan is that submitted at further information stage - Drg. No. 6C (Titled Scenario 1) and received 25th April 2025.
- That the finished floor level of the house shall be 60.5m, not 61.3m.
- That the garage shall be relocated forward (northwest) by circa 15m.

Matters to be agreed within the revised site layout incorporating these changes comprise:

- Confirming the finished floor level of the dwelling relative to its location on the c.60.5m contour.
- Showing the revised position of the garage.

The condition specifically references drg. No. 6C Scenario 1, as submitted by the applicants at Clarification of Further Information stage and does not provide for relocation of the house on the site. The condition is clear that the finished floor level of the house is to be 60.5m. It requires that the site layout plan to be agreed clearly reflect this finished floor level which corresponds to its revised position on the c.60.5m contour line.

The wording set out in part (a) of the condition appears to arise from a discrepancy between the site layout plan (drg. No. 6C Scenario 1) and the notation on the drawing which states that the finished floor level is 61.3m. Based on the submitted site plan, this notation would appear to be an error and would appear to have been carried over from the site layout plans submitted with the application. I note the commentary contained in the Planning Officers Report dated 22/05/2025 in this regard. The location of the dwelling shown on the compliance submission (30/07/2025) does not reflect that of drg. No. 6C Scenario 1.

With regard to set-back from the roadside boundary, I note that while the condition is silent in this regard, the referenced site layout drawing (no. 6C Scenario 1) clearly indicates a set-back of 16.61m from the revised roadside boundary. The location of the house on the site is not a matter for agreement under condition no. 3.

The compliance submission of 30/07/2025 does not comply with the requirement of condition no. 3 as the location of the dwellinghouse is not in accordance with drg. No. 6C Scenario 1.

Condition no. 3 requires that the garage be relocated circa 15m forward (northwest) on the site. Drg 6C Scenario 1 shows the garage located on approx. 62 – 62.5m contours with a stated ffl of 61.3m. A revised location, forward by c.15m as required under condition no. 3, would result in a location at a level of between circa 61.4m and c.62.2m (all levels are approximate).

The compliance submission of 30/07/2025 reflects the garage location previously suggested by the applicants at further information stage, which drawings also indicated a proposed ffl of 61.3m. Scaling approximately from the compliance submission, the plans appear to show the garage located approx. 14m+ forward of the location shown on Drg 6C Scenario 1 at levels of between c.61.5 – 62.3 (all levels are approximate).

I consider that the wording of the condition allows for a degree of flexibility in the siting of the garage on the site (circa 15m). I further consider that the location identified within the compliance submission of 30/07/2025 falls within the range of such flexibility and would achieve the objective of the condition. Condition no.3 does not specify a revised finished floor level for the garage, however, the cover letter accompanying the compliance submission discusses a ffl of 61.3m, which reflects Drg 6C Scenario 1 and is considered reasonable in this instance.

I consider that the compliance submission of 30/07/2025 can be considered to meet the requirements of condition 3(b), subject to confirmation of the finished floor level of the garage.

## **Conclusion**

On balance I do not consider that the referrers in this instance have provided plans which would meet the requirements, or which could be interpreted as meeting the requirements of condition no. 3(a). The site layout plan submitted on 30<sup>th</sup> July 2025 does not meet the specific requirements of the condition and is beyond the scope of this point of detail referral. While the applicants are clearly dissatisfied with condition no. 3, this condition was

not the subject of a first party appeal and the scope of matters to be determined under this referral are limited.

## 11.0 AA Screening

This referral in respect of a point of detail has been made under the provisions of section 34(5) of the Planning and Development Act, 2000, as amended. As such, the requirements S177U of the Planning and Development Act 2000, as amended, do not apply.

## 12.0 Water Framework Directive

The referral has been made under the provisions of section 34(5) of the Planning and Development Act, 2000, as amended. The Commission shall therefore determine only the matters arising to be agreed under this condition. As such, the requirements under the Water Framework Directive do not apply in this instance.

## 13.0 Recommendation

**WHEREAS** by order dated the 26th day of June 2025 Roscommon County Council, under planning application reference number PD/24/60586, granted subject to conditions a permission to Aine Finneran for development comprising the erection of a dwelling house, garage and construction of effluent treatment system, coupled with ancillary works at Carrowdugg and Garbally, Taughtmaconnell, Ballinasloe, Co. Roscommon,

**AND WHEREAS** Condition no. 3 attached to the said permission required that a revised site layout plan shall be submitted for the written agreement of the Planning Authority to reflect the specified finished floor level of the house and relocation of the proposed garage.

**AND WHEREAS** the applicant and the planning authority failed to agree on the above details in compliance with the terms of the said condition and the matter was referred by the applicant to An Bord Pleanála on the 9<sup>th</sup> day of October 2025:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, hereby determines that a revised layout was submitted to the planning authority but that such layout and details do

not satisfy the requirements of condition no. 3 and fall outside the scope of matters to be agreed thereunder.

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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Conor McGrath ADP

06/01/2026

## Appendix 1: Form 1 EIA Pre-Screening

<b>Case Reference</b>	
<b>Proposed Development Summary</b>	
<b>Development Address</b>	
<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>	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2. <input type="checkbox"/> No, No further action required.
(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)	

<p><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></p>	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1.</p> <p><b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b></p>	<p><b>State the Class here</b></p>
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<p><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></p>	
<p><input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, 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><b>State the Class and state the relevant threshold</b></p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p>	<p><b>State the Class and state the relevant threshold</b></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.</b></p> <p><b>(Form 3 Required)</b></p>	
<p><b>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)?</b></p>	
<p><b>Yes <input type="checkbox"/></b></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p><b>No <input checked="" type="checkbox"/></b></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

Inspector: Conor McGrath Date: 06/01/2026