



An
Bord
Pleanála

Board Direction
BD-004730-19
ABP-305194-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/12/2019.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

1. Development Plan policy as set out at '*TRANS 19*' of the Laois County Development Plan 2017-2023 seeks to restrict development requiring access onto Regional Roads where speed limits in excess of 50 kph apply. It is considered that proposed development would result in an intensification of traffic turning movements to and from an existing entrance onto the Regional Road R424 at a point where a speed limit in excess of 50 kph applies and where traffic travels at up to the maximum speed limit. In addition, on the basis of the information submitted with the application and appeal, it is not certain that sightlines can be achieved without impact on lands not in the ownership of the applicant. It is considered, therefore, that the proposed development would endanger public safety by reason of traffic hazard. Accordingly, the proposed development would contravene Development Plan policy as set out at Policy '*TRANS 19*', would set an undesirable precedent for similar developments and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The majority of proposed approximately 300 m access road corridor, within the application site, together with the northern end of the site of the proposed dwelling and curtilage area is situated on lands identified as areas of flood risk (Flood Zones A and B). The applicant has not demonstrated how the proposed development complies with development management criteria set out in 'The *Planning System and Flood Risk Management - Guidelines for Planning Authorities*' issued by the Department of the Environment, Heritage and Local Government (2009) in terms of a justification test for the proposed development which is classified as 'highly vulnerable' development. Furthermore, the applicant has not demonstrated how the proposed development complies with Policy 'CS 49' of the Laois County Development Plan 2017-2023 which stipulates that outside the settlements which are zoned and designated in the Settlement Strategy, all proposed development which is vulnerable to flooding and which is located in flood zones A and B must pass the Development Management justification test. It is considered therefore, that the proposed development would exacerbate the risk of flooding within the site and/or increase the risk and consequences of flooding elsewhere. Accordingly, the proposed development would contravene Development Plan policy 'CS 49' and would be contrary to the Planning System Flood Risk Management Guidelines, would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. On the basis of the information submitted with the application and appeal, the Board is not satisfied that the applicant has demonstrated sufficient legal interest in the roadway leading from the R424 to the point where a new east-west access driveway corridor exclusively for the proposed dwelling is proposed to be commenced. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. On the basis of the information provided with the application and appeal, with particular regard to a potential deterioration in water quality resulting from pollution/eutrophication caused by discharges from the waste water treatment system which may be compounded by flood risk potential, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code No. 002162), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.'

note:

- (1) The Board was not satisfied, on the basis of the documentation submitted with the current application and appeal, that the applicant complies with the requirements of National Policy Objective 19 of the National Planning Framework to justify a dwelling in this rural area which is classified as an area Under Strong Urban Influence. In an area that is designated under urban influence, it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. However, the Board considered that this matter constitutes a new issue in the context of the current appeal and,

therefore, decided not to pursue the matter further in light of the substantive reasons for refusal as set out above.

(2) On the basis of the documentation submitted with the current application and appeal, the Board was not satisfied that the applicant had satisfactorily demonstrated that the proposed on-site effluent treatment unit could be satisfactorily accommodated on site. However, the Board considered that this matter constitutes a new issue in the context of the current appeal and decided not to pursue this matter in light of the substantive reasons for refusal as set out above.

Board Member

Date: 11/12/2019

Chris McGarry