



Planning and Development Acts 2000 to 2019

Planning Authority: Laois County Council

Planning Register Reference Number: 19/312

APPEAL by Kasey-Jo Hyland care of AWD Developments Limited of Dublin Street, Monasterevin, County Kildare against the decision made on the 23rd day of July, 2019 by Laois County Council to refuse permission for the proposed development.

Proposed Development: Construction of a bungalow type dwelling with effluent treatment system and percolation area using existing vehicular entrance and all associated site works at Clonanny, Portarlinton, County Laois.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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 the 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 materially 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 the proposed approximately 300 metres 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 CS49 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 materially contravene development plan policy CS49, 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 submitted with the application and appeal, with particular regard to a potential deterioration in water quality resulting from pollution/eutrophication caused by discharges from the wastewater 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: 002162), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.