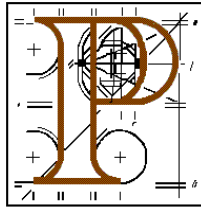


# An Bord Pleanála



## Inspector's Report

**PL02.245490**

**DEVELOPMENT:-**

House, Garage and associated site works at Teeboy Townland, Corlough, Belturbet, County Cavan.

**PLANNING APPLICATION**

**Planning Authority:** Cavan County Council  
**Planning Authority Reg. No:** 15/268  
**Applicant:** Joseph and Fiona Prior  
**Application Type:** Permission  
**Planning Authority Decision:** Grant

**APPEAL**

**Appellant:** An Taisce  
**Types of Appeal:** 3<sup>rd</sup> Party -v- Grant  
**Observers:** None  
**DATE OF SITE INSPECTION:** 17<sup>th</sup> December, 2015.

**INSPECTOR:** Paul Caprani

## **1.0 INTRODUCTION**

PL02.245490 relates to a third party appeal against the decision of Cavan County Council to issue notification to grant planning permission for a dwellinghouse, garage and associated site works in the townland of Teeboye outside the village of Bawnboy in west Cavan. The appeal submitted by An Taisce argues that the proposed development will have an adverse and inappropriate impact on the landscape character of the area and could also adversely affect the water quality of the receiving environment. It is also contended that the application was not adequately assessed at local authority stage.

## **2.0 SITE LOCATION AND DESCRIPTION.**

The appeal site is located on a local road to the east of the R202 (Swanlinbar to Ballinamore Road) in north-west Cavan. The site is located in a rural area characterised by drumlins and lakes. In terms of settlement, the nearest villages include Bawnboy, circa 5 kilometres to the east of the site in Ballinamore in County Leitrim circa 8 kilometres to the south-west of the site. The Cuilcagh Mountains are located approximately 6 kilometres to the north-west of the site while Slieve Rusheen is located approximately 8 kilometres north-east of the site. Bunerky Lough is located approximately 500 metres to the east of the site.

The site itself is located on the southern side of a local narrow third class road in the townland of Teeboy. There are no dwellings in the immediate vicinity of the site. The nearest dwelling is located approximately 150 metres to the west of the site on the northern side of the local road. The site itself is irregularly shaped and incorporates a steep upward slope from the road side. The site incorporates a road frontage of just over 50 metres and the average site depth is estimated to be approximately 65 – 70 metres. The northern portion of the site adjacent to the access road accommodates dense woodland approximately 20 – 30 metres in depth. The northern portion of the site also incorporates the most pronounced upward slope. The rear part of the site is elevated and is currently under grass. A lower lying field and a local road running in a north-south direction are located to the east of the site. The presence of surface water drains around the site including along the northern boundary of the site are apparent. A small stream runs along the eastern boundary of the site. The site in the immediate

area surrounding the site is characterised by pronounced undulating topography. The site has a stated area of 0.47 hectares.

### **3.0 PROPOSED DEVELOPMENT**

Planning permission is sought for the construction of a two-storey dormer dwelling rising to a ridge height of just under 8 metres. The dwellinghouse incorporates two dormer windows and an A-shaped gable on the front elevation and a single-storey sun lounge to the side. The ground floor accommodates the main living areas with four bedroom above at first floor level. The total floor area of the dwelling amounts to just over 262 square metres. The dwelling is located centrally within the site and faces eastwards. A hardstanding area is to be provided around the house and a meandering access road is proposed to counteract the steep gradient in the northern portion of the site. The dwelling itself is to incorporate an off-white dash rendered finish on all elevations.

In terms of on-site wastewater treatment a biocycle with a polishing filter unit is to be installed to the rear of the house. The polishing filter area is to be located in the south-eastern corner of the site.

It is also proposed to construct a single-storey garage to the rear of the dwelling, adjacent to the western boundary. The garage has a stated floor area of 44 square metres.

### **4.0 PLANNING AUTHORITY ASSESSMENT**

The planning application was lodged with Cavan County Council on 1<sup>st</sup> July, 2015. The planning application form submitted with the application indicates that the applicants are currently residing in Ballyconnell approximately 10 kilometres to the east of the subject site but are local to this specific area. The applicants have been living at this address for 30 years. The applicant currently works as a factory operative and farmer at Ballyconnell. The application form also indicates that he is the owner of the lands in question and his total land holding is 40.6 hectares.

The site suitability assessment indicates a 2.1 metre trial hole excavated on site did not encounter either groundwater or bedrock. T tests yielded values of 14 and P tests yielded an average value of 42.5. The site was therefore deemed to be suitable for the construction of an on-site

proprietary wastewater treatment system. It was recommended that a package wastewater treatment system and polishing filter be constructed on site with a discharge to groundwater.

A letter from the Corlough Group Water Scheme states that the applicant can connect to the group water scheme upon the payment of a connection charge.

A letter of objection from An Taisce (the current appellants) was also submitted the contents of which were read and noted.

The planner's report dated 17<sup>th</sup> August, 2015 notes the site location and description and the planning policy as it relates to the site.

The planning assessment notes that the site rises up from the public road and the planning authority are unclear from the plans submitted how the dwelling would be situated on site in terms of the amount of cut and fill which would be necessary. Given that this site is located in a structurally weak area as designated in the Development Plan, it is considered that a rural housing need has been established. Details of the entrance walls and piers have not been provided and this is an important consideration in assessing the application. In order for the Planning Authority to fully assess the application further information is required including:

- The resubmission of a location map indicating all lands under the applicants' ownership.
- Details of the entrance walls and piers at the proposed access.
- Cross-section drawings of the site
- A design statement which justifies the choice of the site as opposed to other sites that may have been available to the applicant
- A visual impact assessment.
- Given the elevated nature of the site at this location the Planning Authority has concerns about the amount of hard landscaping proposed and the increased level of surface run-off that would occur. The applicant is advised to submit a revised site layout with a reduced amount of hard landscaping.

However if planning permission is to be granted for the proposed development it is recommended that 16 conditions be attached.

In its decision dated 19<sup>th</sup> August, 2015, Cavan County Council issued notification to grant planning permission for the proposed development subject to 16 conditions.

## **5.0 PLANNING HISTORY**

There appears to be no planning history associated with the appeal site.

## **6.0 GROUNDS OF APPEAL**

The decision of Cavan County Council to issue notification to grant planning permission was appealed by An Taisce. The grounds of appeal are outlined below:

- The site is located on a narrow local road with a poor road surface.
- The dwelling would be located on an elevated site which rises relatively steeply from the public road. The site is considered unsuitable for a dwelling because of its elevated nature and would be visually obtrusive.
- Notwithstanding the fact that the site is located in a structurally weak area as designated in the Cavan County Development Plan, the Plan seeks to accommodate any demand for permanent residential development as it arises subject to good planning practice in matters of location, siting, design, access and wastewater disposal and the protection of environmentally sensitive areas (An Taisce's emphasis) and areas of high landscape value. The grounds of appeal go on to outline the landscape character of the area and it is argued that the landscape is extremely fragile and sensitive to incompatible and unsympathetic development. Housing in such areas should be confined to low-lying locations.
- It is also apparent that the local authority planner in assessing the application had a number of concerns including the amount of cut and fill which would be necessary to accommodate the proposed development.

- It is considered that the proposal would be contrary to many of the statements set out in the Design Guide for Single One-off Houses within the Cavan Rural Countryside. An Taisce consider that the site does not have the capacity to absorb the proposed development without injuring the surrounding landscape character.
- In terms of site justification, An Taisce note that no justification was submitted with the application and no investigations were undertaken that a more suitable location will be available for the proposed development.
- Insufficient information was attached in relation to the location of drinking water springs in the proximity of the site. It would appear that a drinking water spring is located to the north-east of the site boundary. The wastewater treatment system could propose a risk to any drinking water supplies in the area. The proposal therefore could contravene objectives in the Development Plan which seek to improve water quality in the county. Reference is made to Article 4 of the 1975 EU Waste Framework Directive in this regard.
- Finally it is argued that the application in question was not sufficiently assessed and this is reflected in the local authority planner's report which requested that further information should be submitted. Despite this recommendation no further information was sought from Cavan County Council prior to granting planning permission.

## **7.0 APPEAL RESPONSES**

### **7.1 Planning Authority Response**

Cavan County Council submitted the following response to the grounds of appeal:

The decision to overturn the planner's recommendation to seek further information was based on the grounds that:

- There is sufficient evidence that the applicant is a landowner/farmer for the area with an excess of 40.6 hectares of land and that the rural housing need was justified.

- The design of the proposed dwellinghouse was considered appropriate in the context of rural housing design guidelines.
- Site conditions were deemed to be appropriate for an on-site wastewater treatment system.
- The site is located on a local secondary road but would not be a traffic hazard.
- The site is not located in or adjacent to any natural heritage area.

It is noted that the area is located in the landscape character area of 'Cuilcagh-Anieran' which is a high landscape area.

However it was considered that the proposed development would not be contrary to the policies and objectives contained in the Cavan County Development Plan. With regard to the specific issues raised in the grounds of appeal it is considered that the site characterisation form submitted with the application demonstrated that the site is suitable for an on-site wastewater treatment system in accordance with the EPA Code of Practice. There are no wells within 1 kilometre of the site.

The Planning Authority notes that there was no pre-planning meetings in respect of the application. Therefore the best location for potential development was not agreed prior to the lodging of the application. However the Planning Officer did not seek to refuse the planning application on these terms.

The Planning Authority concurs with the opinion that due consideration may not have been given to the proposed development in terms of the potential impact on this upland area of the county in particular the siting of the proposed new dwelling and new entrance. With reference to the cut and fill of the proposed development and the potential impact of the proposed new entrance on the steepest part of the site this was not properly assessed.

With regard to the matter of precedent the Planning Authority considers that each application should be evaluated on its own merits.

## **7.2 Applicant's Response to the Grounds of Appeal**

A response submitted on behalf of the applicant was not submitted within the specified time.

## **8.0 PLANNING POLICY CONTEXT**

### **8.1 Development Plan Provision**

The site is governed by the policies and provisions contained in the Cavan County Development Plan 2014-2020.

Section 2.7 of the Plan sets out policies and objectives in relation to rural settlement. In terms of rural generated housing, the Planning Authority considers that the following broad categories constitute a rural generated housing need.

- (a) Persons who are an intrinsic part of the rural community.
- (b) Persons who have spent substantial periods of their lives living in rural areas as members of the established rural community (e.g. farmers, their sons, their daughters and any person taking over the ownership and running of farms as well as people who have lived most of their lives in rural areas and are building their first homes).
- (c) Returning emigrants who lived for a substantial part of their lives in rural areas then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members or to retire.
- (d) Persons originally from the local rural area who wish to return.
- (e) Persons currently residing in the rural area and who can demonstrate a requirement for a permanent residence there.
- (f) Persons who need to reside near elderly parents to as to provide security, support and care or elderly people who need to reside near immediate family.
- (g) Persons who are working full-time or part-time in rural areas.
- (h) Persons involved in full-time farming, forestry, inland waterway or related occupations as well as part-time occupations where predominant occupation is farming or natural resource related.
- (i) Persons whose work is intrinsically linked to rural areas such as teachers in rural schools.



- (j) Persons who are employed in rural areas and can suitably demonstrate that they will continue to do so for the foreseeable future.

The site is located in an area designated as a structurally weak area (see Appendix 5 of Development Plan). These areas exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure. These areas, to a large extent correspond with designations of high visual and scenic amenity and otherwise vulnerable areas such as EU designated sites. The capacity of the landscape to absorb development will be a major consideration in the assessment of proposals in such areas.

The key objective is to promote real and long-term community consolidation and growth. To accommodate any demand for permanent residential dwelling as it arises subject to good planning practice in matters relating to location, siting, design, access, wastewater disposal and the protection of environmental sensitive areas and areas of high landscape value.

Policy RH012 seeks to facilitate proposals for permanent residential development in order to tackle declining population levels.

Policy RH013 seeks to implement a programme to monitor the operation of settlement policies on an on-going basis to avoid excessive levels of inappropriate located development.

The upland areas of West Cavan are designated a high landscape area. In terms of landscape character, Area No. 1 includes the Cuilcagh-Anierin Uplands.

The site is located to the south-east of the designated area 'High Landscape' in West Cavan.

## **8.2 Design Guide for Single One-off Houses within the Cavan Rural Countryside**

Section 1 of this document relates to site selection for the purposes of constructing houses in the countryside. With regard to the Cuilcagh-Anierin Uplands of West Cavan, it is noted that the landscape character of this area comprises of open unenclosed treeless upland hill country with occasional isolated farms and outbuildings sited in shallow valleys

are under the lee or ridgelines. The landscape is extremely fragile and sensitive to incompatible and unsympathetic development. The vernacular architecture of this area reflects this rugged exposed environment consisting mostly of single storey stone-built cottages and farmhouses and farm buildings. Shelter from prevailing winds would have been an important consideration in the siting of dwellings rather than views which is more common today. Shelter would have been provided by choosing low-lying locations using outbuildings to surround the dwelling and using existing hedgerows and trees for shelter.

With regard to the siting and location of the dwelling it is stated that construction of houses on elevated and exposed sites which would be obtrusive and will reduce the visual character of the rural area will not be permitted.

### **8.3 Rural Housing Guidelines**

Expanding on the Rural Policy Framework in the NSS the Guidelines provide for people who are part of the rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. The principles set out in the Guidelines also require that new houses in rural areas be sited and designed to integrate well with their physical surroundings and generally be compatible with the protection of water quality, the provision of a safe means of access in relation to road and public safety and the conservation of sensitive areas.

## **9.0 PLANNING ASSESSMENT**

I have read the entire contents of the file and visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the pertinent issues in respect of the current application and appeal before the Board are as follows:

- Visual Impact
- Access and Traffic Considerations
- Water Quality Issues
- Housing Need

## 9.1 Visual Impact

Having inspected the site I would share the concerns highlighted by An Taisce in the grounds of appeal. The proposed dwellinghouse is located on the more elevated part of the site above the band of woodland which runs adjacent to the roadway. Finished floor levels of the proposed dwelling are between 5 and 7 metres above the levels of the adjoining access road. The two storey nature of the dwelling which rises to a ridge height of almost 8 metres would in my view be very prominent when viewed from vantage points in the surrounding area. While the band of woodland along the northern boundary of the site may assist in screening the development from vantage points in the vicinity along the public road, views from roadways in the wider area particularly to the east of the site in the vicinity of Bunerky Lough would be prominent. It is quite clear from the policies set out in the Development Plan and the policies set out in Rural Housing Design Guidelines that the placement of dwellinghouses on elevated and exposed sites which would be obtrusive will reduce the visual character of the rural area and will not be permitted.

Notwithstanding the fact that the site is located within a structurally weak area where it is the Planning Authority's policy to accommodate any demand for permanent residential development as it arises, this objective is subject to good planning practice particularly in matters in relation to location and siting.

Furthermore Section 10.14.3 of the Development Plan states in respect of one-off dwellings that it is essential that "*care is exercised in the siting and design of new buildings to ensure that they can integrate harmoniously with their surroundings and thereby protect the amenity and character of the countryside of County Cavan*".

The applicant has not demonstrated that there are alternative sites within his landholding (circa 40.6 hectares) that will be more suitable to accommodate a rural dwelling than the subject site. The Planning Authority has acknowledged that "*due consideration may not have been given to the proposed development in terms of the potential impact of the proposed dwellinghouse on this upland area of the county – in particular the siting of the proposed new dwellinghouse and the new entrance*".

It is also acknowledged that the cut and fill of the proposed development and the potential impact of the proposed new entrance on the steepest

part of the site was not properly assessed. This is another important consideration in my view in terms of visual amenity. At the very least the applicant should have been required to produce cross-section drawings across the site in order to adequately evaluate the visual impact arising from any cut and fill works required in order to facilitate the access road and the proposed dwelling in general.

In terms of visual amenity therefore, I am satisfied that the proposed development would have an adverse impact on the visual amenities of the area due to its location on a prominent and exposed area within the site. Furthermore I am not satisfied that more suitable locations exist within the owner's overall landholding which would be more acceptable in visual terms. Furthermore I do not consider that the proposed visual impact has been properly evaluated as little information has been provided in relation to the cut and fill which would be required to take place on site in order to accommodate the access road and whether or not such cut and fill techniques would significantly detract from the natural topography associated with the current site. I therefore recommend that the Board refuse planning permission on the grounds of visual impact.

## **9.2 Access and Traffic**

I would also have significant concerns in relation to the access arrangements associated with the site. The proposed access from the public road to the dwellinghouse incorporates a very steep gradient and the access road serving the dwelling is narrow in terms of its overall width and alignment. The road is approximately 3 metres wide in the vicinity of the site. Photographs attached also indicate that there are some acute bends along the alignment of the road which significantly restricts sightlines. Due to the narrowness of the road it is unlikely that traffic will travel at excessive speed. Nevertheless sightlines are restricted particularly in a westerly direction at the proposed access point. I estimate from my site inspection that the vision splays available are in the order of 50 metres in a westerly direction. Another important issue relates to the narrowness and substandard nature of the access road. There are no points within the vicinity of the site which will enable two cars to pass each other travelling in opposite directions. This problem is exacerbated by the fact that steep drains/watercourses are located along the edge of the road which makes the provision of laybys/pull-in areas all the more difficult in the vicinity of the site.

I therefore consider that the Board should refuse planning permission for the proposed development on the grounds that the nature of the access road serving the site in question is substandard in terms of width and alignment.

### **9.3 Water Quality Issues**

An issue raised in the grounds of appeal related to the potential impact of the proposed development on water quality particularly, in relation to the location of drinking water springs in proximity to the site. I saw no evidence of any on-site wells in the area surrounding the site while undertaking my site inspection. While I cannot definitively rule out the presence of wells in the vicinity, I note the Site Suitability Assessment carried out for the on-site WWTS stated that there were no wells within 250m of the site.

The potential impact arising from the proposed development on water quality relates to the incorporation of an on-site proprietary wastewater treatment system. It appears from the information contained on file together with my site inspection that the proposed percolation area associated with the polishing filter is to be located in a more elevated part of the site which appears to incorporate the best percolation and infiltration characteristics within the site. Details of the site characterisation assessment contained on file indicates that the trial hole excavated on site did not encounter groundwater or bedrock and that the site had appropriate percolation characteristics to fully treat the effluent to a sufficient standard so as not to pose a threat to any nearby water supplies. Based on the information contained on file, particularly the site suitability assessment carried out and the inherent characteristics of the soil and subsoil on the site, I do not consider that the proposed development will pose a threat to surface water or groundwater in the vicinity.

### **9.4 Housing Need**

The final significant issue raised in the grounds of appeal relate to site justification. It appears that the appellants in this instance have accepted the applicant's bona fides with regard to housing need. I would reach a similar conclusion having regard to the information contained on file. The site is located in a structurally weak area and it appears that the applicant in this instance has ties to the area and is a part-time local farmer. Information contained on file also indicates that the overall

farmholding amounts to some 40 hectares. The specific issue raised in the grounds of appeal is whether or not a more suitable location within the overall landholding may be available. I alluded to this point in assessing the proposed development in terms of visual amenity and I would concur with the appellants that a more thorough investigation with respect as to whether or not more suitable sites exist in the overall landholding which would have a lesser impact in visual amenity terms.

## **10.0 APPROPRIATE ASSESSMENT**

The nearest designated Natura 2000 Sites are the Cuilcagh-Anierin Uplands SPA (Site Code 00584) which is 5.2 km to the west of the site and the Lough Oughter and Associated Loughs SAC (Site Code 0007) which is approximately 11.5 km to the east. There are no hydrological, hydro-geological or other links between the site and these designated European Sites. Furthermore based on the evidence presented I am satisfied that any wastewater discharged from the site will be appropriately attenuated prior to reaching water bodies. Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site'.

## **11.0 CONCLUSIONS AND RECOMMENDATIONS**

Arising from my assessment above I consider the decision of Cavan County Council in this instance should be overturned and planning permission should be refused for two reasons relating to the unacceptable visual impact arising from the proposed and that the access road serving the subject site is substandard in terms of width and alignment.

Finally the Board are requested to note that the appellants are seeking expenses associated with the appeal under the provisions of S145 of the Act.

## **12.0 DECISION**

Refuse planning permission in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

### **REASONS AND CONSIDERATIONS**

1. The site is located on elevated and exposed lands in the Cuilcaghanierin Uplands of West Cavan. The Design Guide for Single One-off House within the Cavan Rural Countryside as adopted as Appendix 7 of the Cavan County Development Plan 2014-2020 states that this area of the County constitutes extreme fragile and sensitive landscape which is sensitive to incompatible and unsympathetic development. It is considered that the proposed development located on an exposed and elevated site, would contravene materially this objective as set out in the Design Guide for Single One-off Rural Houses and would adversely impact on the visual amenities of the area. Furthermore based on the information contained on file the Board is not satisfied that more suitable lands exist to accommodate a dwelling within the applicant's landholding. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located on a minor road which is seriously substandard in terms of width and alignment. The traffic generated by the proposed development would endanger public safety by reason of a traffic hazard and obstruction to road users.

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**Paul Caprani,  
Senior Planning Inspector.**

**21st December, 2015.**

**sg**