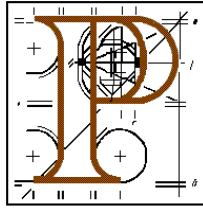


An Bord Pleanála



Inspector's Report

PL14.245711

DEVELOPMENT: Outline Permission for replacement dwelling and all ancillary site works

- at Lissanurlan, Longford, County Longford.

PLANNING APPLICATION

Planning Authority: Longford County Council

Planning Authority Reg. No.: 15/136

Applicant: B. Power

Application Type: Outline Permission

Planning Authority Decision: **REFUSE OUTLINE PERMISSION**
for Reasons and Considerations (3)

APPEAL

Appellant: B. Power

Type of Appeal: **FIRST PARTY**

Observer: None

DATE OF SITE INSPECTION: 29th January 2016

INSPECTOR: Dermot Kelly

1. SITE LOCATION

The subject site is located in a rural area at Lissanurlan approximately 1.5 kilometres to the west of the built-up area of Longford Town in County Longford, as indicated on **APPENDIX A - LOCATION MAP**.

2. SITE DESCRIPTION

2.1 The subject site lands at Lissanurlan, Longford, County Longford were described as follows in the Planning Report for the Planning Authority:

‘The proposed development site is located along the N5 National Primary Route between Longford and Clondra, to the west of Longford and is not located within any designated development envelope as specified in the Longford County Development Plan 2015 – 2021. The proposed development site is not located within any Natural Heritage Area, SAC, SPA or Broad Zone. There is an existing derelict dwelling and outhouses on the site, which are located close to the roadside boundary. The proposed development site is located along a straight stretch of road, with broken white lines and where the maximum speed limit of 100kph applies. It is indicated as part of the planning application that the proposed development site has a stated area of 0.94 hectares’.

2.2 The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

3. PROPOSED DEVELOPMENT

3.1 Planning Application

- The proposed development comprises as specified in the Public Notices: Outline Permission for replacement dwelling and all ancillary site works at Lissanurlan, Longford, County Longford.
- The submitted detailed drawings of the proposed development are noted including the Proposed Site Plan drawing indicating the existing dwelling to be replaced alongside the site frontage to the N5 National Primary Route, the location of the existing entrance onto the N5 and the location of the proposed dwelling set back within the subject site. The completed Planning Application Form

stated that the proposed dwelling would be served by a new well as source of water supply and an existing septic tank system.

3.2 Unsolicited Further Information Submission

Unsolicited Further Information was received on 4th September, 2015 in regard to the Submission of Transport Infrastructure Ireland and included stating as follows:

‘This policy is well known and the creation of a new access would indeed give rise to an unacceptable planning precedent.

However, my site has two existing vehicular access routes and an existing house, garage and farm building on the lands and these all pre-date current planning policy and even the 1963 Planning Act. My outline proposal is not for the creation of a new access: instead there are two existing entrances and one of these could be removed by way of planning condition.

The existing entrances cannot be interfered with otherwise’.

4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports

4.1 Third Party Submission on Planning Application

The Submission received is noted and included that the observer was the previous owner of the subject site and was refused permission for a dwelling on same. The Submission included stating as follows:

‘The proposed site is located along a Primary National Road which is restricted from new developments and would increase the traffic hazard and endanger public safety.

The development if granted will provide an intensification of septic tanks in a rural area and would be prejudicial to public health as drainage in the area is poor.

The applicant of the site has not provided evidence of the requirement of the proposed dwelling and local need contrary to the County Development Plan’.

4.2 Road Design Section Report

This report, dated 25th August, 2015 included that ‘The site is within a 100kph speed limit’ and stated as follows:

- ‘1. The proposed development is located on a national road where the maximum speed limit applies. The traffic generated as a result of the proposal would create a traffic hazard to road users.
2. The proposal is at variance with Longford County Council and national policy in relation to control of frontage development on national roads.
3. The application shall be submitted to the NRA’.

4.3 Submission of Transport Infrastructure Ireland

This Submission dated 31st August, 2015 included stating as follows:

‘The Authority has examined the above application and considers that it is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network for the following reason(s):

- o Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January, 2012). The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would, in the Authority’s opinion, be at variance with the foregoing national policy in relation to control of frontage development on national roads’.

4.4 Planning Report for Planning Authority

- The Planning Report, dated 12th October, 2015 included noting that the subject site fronted onto the N5 National Primary Route and that there was an existing derelict dwelling and outhouses on site.
- A private well was proposed as a water supply source though there was a public water mains along the site frontage. It was stated that no Site Characterisation Form as required in regard to the proposed wastewater treatment system had been submitted.
- The Third Party Submission and the Submission of Transport Infrastructure Ireland were noted and also the Road Design Section Report which considered that the proposed development would result in a traffic hazard as specified.

- Under ‘Planning Consideration’ the Planning Report included noting that the Submission of Transport Infrastructure Ireland and the Road Design Section Report both recommended refusal of outline permission by reason of ‘at variance with official policy in relation to control of development on/affecting national roads and would adversely affect the operation and safety of the national road network’, and ‘would create a traffic hazard to road users’.
- ‘Policy ROADS 11 of the Longford County Development Plan 2015 – 2021 indicates that routes of strategic importance within the County, including the N5, shall be protected from further access creation and intensification of existing accesses and development on national routes shall be actively discouraged’. and also ‘The applicant’s response to the submission from TII that there are two existing entrances to the site and if planning permission is granted, one could be closed off is noted. However, it was noted that these entrances were largely overgrown and the one to the front of the existing dwelling in particular would not be suitable for vehicular access due to the proximity to the front of the dwelling. It is considered that the reopening of an entrance point at this location, which has not been used for a significant period of time, would result in a conflict in turning movements at this location and in turn, presents a traffic hazard and would be contrary to the above policy (ROADS 11) in relation to the intensification of existing accesses and development on national routes.’
- It was considered that in the absence of the submission of a Site Characterisation Form that the Planning Authority ‘cannot fully assess the suitability of the proposed development site for wastewater treatment and therefore cannot be satisfied that the proposal would not give rise to a public health hazard at this location.’, and also ‘The applicant indicates that he owns the land in question but no further information has been submitted with his application in relation to his need for a dwelling at this rural location, as is required in accordance with Policy HOU RUR 3 of the Longford County Development Plan 2015 – 2021.’
- Refusal of outline permission was recommended for the Reasons and Considerations (3) as stated in the notification of decision of the Planning Authority.

4.5 Notification of Decision of Planning Authority

The Planning Authority, Longford County Council, issued a notification of decision to **REFUSE OUTLINE PERMISSION** for Reasons and Considerations (3) as specified relating to Policy Roads 11, Rural Housing Need Policy CS12 and Policy HOU RUR 2 and 3, and Policy HOU RUR 7 in the 2015-2021 Longford County Development Plan as specified.

5. APPEAL GROUNDS

First Party Appeal

- The First Party Appeal Grounds included stating as follows:
‘There are two existing vehicular accesses and one pedestrian gate to these application lands. My client has an entitlement to keep these and cannot be deprived of them or their use. There is no restriction on the intensity of user: he can use these entrances without condition and/or limitation because they exist and pre-date the 1963 Act’.
- The Appellant lived in rented accommodation with his family about 3 miles from the subject site and is entitled to live in the existing house on the site which he purchased in 2013.
‘The proposed house is not unsustainable, is not speculative, is not a commuter house and is not ribbon development as it is implicit that replacing the existing dwelling means the removal of the existing. This does not create a planning precedent’.
- ‘My client did not apply for a replacement septic tank and/or percolation area. All he sought permission for was a replacement house. Further information was not sought in respect of percolation test etc. There is an existing trouble-free septic tank already on the site which my client is entitled to continue to use.
Astonishingly, the Council has cited failure to demonstrate the sufficiency of a ‘proposed effluent treatment system’ as a reason for refusal. But my client did not apply for a ‘proposed effluent treatment system’!
- There were no reasons for refusal relating to site drainage or demonstration of housing need in the previous refusal decision

(Ref. No. 01/289) on the subject site. The existing house was not considered to be 'derelict' as described by the Planning Authority. 'The alternative approach for my client is to carry out works for the maintenance, improvement and repair of any structure i.e. the existing house and septic tank'.

- 'The Policy in the development plan is that the N5, a route of strategic importance, should be protected from 'further access creation and intensification of existing accesses'.
No further access is proposed to be created.
No intensification proposed: rather a decrease is proposed.
There is a constitutional right to continue to use the lands to their fullest'.
- 'The Development Plan Policy requires demonstration of need for new rural housing. The aim, objective and policy is prevent unsustainable, speculative, urban commuter and ribbon development.
The proposal is not unsustainable, speculative or urban commuter ribbon development. The proposal is to replace an existing house which is owned by my client and in which he is entitled to live.
There is no new housing being created'.
- The submitted Site Suitability Assessment is noted including where stated under 5.0 'Recommendation': 'It is proposed to construct a two-storey dwelling. The proposed dwelling is not yet design(ed) but we assume to serve 10 persons in total with 6 bedrooms'.

6. APPEAL RESPONSES

6.1 Appeal Observation

No Appeal Observation was received.

6.2 Planning Authority Appeal Response

No Appeal Response was received.

7. PLANNING HISTORY

The Planning Report for the Planning Authority documented the Planning History of the subject site as follows:

PL7851 – Thomas Farrell was granted planning permission for the re-roofing of a barn on the site.

PL7999 – Thomas Farrell was granted planning permission for a lean-to shed on the site.

PL01/289 – John Farrell was refused outline planning permission for a dwellinghouse on the currently proposed site.

History documents relating to the above Planning Applications (3) were forwarded by the Planning Authority.

8. DEVELOPMENT PLAN

8.1 The provisions of the 2015 – 2021 Longford County Development Plan have been considered, and in particular the following provisions which are attached in **Appendix C – Development Plan:-**

- Policy Roads 11 in regard to Routes of Strategic Importance within Longford County including Longford to Castlebar Road (N5).
- Policy CS 12 including Categories of Applicant for Rural Housing.
- Section 3.2.2.1 – ‘Rural Areas – General Policy and Objectives’ including Policy HOU RUR 2 and 3 and Policy HOU RUR 7.

8.2 The ‘Spatial Planning and National Roads – Guidelines for Planning Authorities’ published by the Department of Environment, Community and Local Government in 2012 have been noted.

8.3 The ‘Sustainable Rural Housing – Guidelines for Planning Authorities’ published by the Department of the Environment, Heritage and Local Government in 2005 have been noted.

9. PLANNING ASSESSMENT – Issues and Evaluation

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

Proposed Development and First Party Appeal Grounds

- The subject site is located in a rural area at Lissanurlan approximately 1.5 kilometres to the west of the built-up area of

Longford Town in County Longford. The subject site was described as follows in the Planning Report for the Planning Authority:

'The proposed development site is located along the N5 National Primary Route between Longford and Clondra, to the west of Longford and is not located within any designated development envelope as specified in the Longford County Development Plan 2015 – 2021. The proposed development site is not located within any Natural Heritage Area, SAC, SPA or Broad Zone. *There is an existing derelict dwelling and outhouses on the site, which are located close to the roadside boundary. The proposed development site is located along a straight stretch of road, with broken white lines and where the maximum speed limit of 100kph applies.* It is indicated as part of the planning application that the proposed development site has a stated area of 0.94 hectares'.

- The proposed development comprises as specified in the Public Notices: Outline Permission for replacement dwelling and all ancillary site works at Lissanurlan, Longford, County Longford.
- The *Road Design Section Report* dated 25th August, 2015 noted that 'The site is within a 100kph speed limit' and stated as follows:
 1. The proposed development is located on a national road where the maximum speed limit applies. The traffic generated as a result of the proposal would create a traffic hazard to road users.
 2. The proposal is at variance with Longford County Council and national policy in relation to control of frontage development on national roads.
 3. The application shall be submitted to the NRA'.
- I note the *Submission of Transport Infrastructure Ireland* objecting to the proposed development for reasons as stated:

'Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January, 2012). The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would, in the Authority's opinion, be at variance with the foregoing national policy in relation to control of frontage development on national roads.'
- I note the *Planning Report for the Planning Authority* which included noting that the *Submission of Transport Infrastructure Ireland* and the *Road Design Section Report* both recommended

refusal of outline permission by reason of 'at variance with official policy in relation to control of development on/affecting national roads and would adversely affect the operation and safety of the national road network' and 'would create a traffic hazard to road users'.

Refusal of outline permission was recommended for such reasons and also for reasons relating to the proposed wastewater treatment systems and non-compliance with the Rural Housing Policy in the Development Plan.

- The Planning Authority, Longford County Council, issued a notification of decision to **REFUSE OUTLINE PERMISSION** for Reasons and Considerations (3) as follows:
 1. It is the policy of the Planning Authority, as set out in Policy ROADS 11 of the Longford County Development Plan 2015 – 2021, that all routes of strategic importance within the county, including the N5, shall be protected from further access creation and intensification of existing accesses. The proposed development resulting in intensification of use of an existing entrance, located along the N5 National Primary Route where maximum speed limits apply, would endanger public safety by reason of a traffic hazard or obstruction of road users and as such, would be contrary to the proper planning and sustainable development of the area.
 2. On the basis of information received, the proposed development does not fulfil a specific rural housing need in accordance with policy CS 12 of the Longford County Development Plan 2015 – 2021 and is therefore contrary to HOU RUR 2 and 3 of the Longford County Development Plan, 2015 – 2021, which aim to prevent unsustainable, speculative, urban commuter and ribbon development in the rural area. The development, would therefore, if permitted, by itself or the precedent it would set for similar developments in the vicinity, contravene these objectives, and, as such, would be contrary to the proper planning and sustainable development of the area.
 3. Due to the lack of information submitted with the planning application, the Planning Authority are not satisfied that the proposed effluent treatment system would not give rise to contaminated effluent entering the ground and/or surface waters at this location and that the proposed development would give rise to the risk of pollution and pose a significant threat to public health, including the health of the occupants of the proposed new dwelling and to the quality of the ground and surface

waters. The proposed development would, if permitted, therefore be contrary to Policy HOU RUR 7 as designated under Section 3.2.2.1 of the Longford County Development Plan 2015 – 2021, which aims to protect water quality, and as such would be contrary to the proper planning and sustainable development of the area.

- I note the *First Party Appeal Grounds* that the Appellant has an entitlement to use the two existing vehicular accesses at the subject site and was also entitled to live in the existing house and had not sought permission for any 'proposed effluent treatment system' as cited in the reason for refusal.
- 'The Policy in the development plan is that the N5, a route of strategic importance, should be protected from 'further access creation and intensification of existing accesses'.
No further access is proposed to be created.
No intensification proposed: rather a decrease is proposed.
There is a constitutional right to continue to use the lands to their fullest'.
- 'The Development Plan Policy requires demonstration of need for new rural housing. The aim, objective and policy is prevent unsustainable, speculative, urban commuter and ribbon development.
The proposal is not unsustainable, speculative or urban commuter ribbon development. The proposal is to replace an existing house which is owned by my client and in which he is entitled to live.
There is no new housing being created'.
- The submitted Site Suitability Assessment is noted including where stated under 5.0 'Recommendation': 'It is proposed to construct a two-storey dwelling. The proposed dwelling is not yet design(ed) but we assume to serve 10 persons in total with 6 bedrooms'.
- The provisions of the 2015 – 2021 Longford County Development Plan have been considered, including the following provisions which are attached in **Appendix C – Development Plan:-**
Policy Roads 11 in regard to Routes of Strategic Importance within Longford County including Longford to Castlebar Road (N5).
Policy CS 12 including Categories of Applicant for Rural Housing.
Section 3.2.2.1 – 'Rural Areas – General Policy and Objectives' including Policy HOU RUR 2 and 3 and Policy HOU RUR 7.

- Further to site inspection when I noted the heavily-trafficked nature of the Longford – Castlebar N5 National Primary Route at the location of the subject site and also that traffic travelled at high speed by reason of the straight stretch of roadway where the maximum speed limit applies, I concur with the Planning Report for the Planning Authority where stated as follows:
 ‘It is considered that the reopening of an entrance point at this location, which has not been used for a significant period of time, would result in a conflict in turning movements at this location and in turn, presents a traffic hazard and would be contrary to the above policy (ROADS 11) in relation to the intensification of existing accesses and development on national routes’.
- The existing house (see Photographs in Appendix B) on the subject site has evidently been disused for many years. In this regard I note that there was a previous planning application for a replacement dwelling (Ref. No. PL01/289) on these lands which was refused outline permission on 28th June, 2001 for the stated Reason for Refusal:-
 ‘It is the policy of the Planning Authority, as set out in paragraph 3.24 of the current Longford County Development Plan to protect the safety and convenience of all road users. The proposed development, located on a National Primary Route where maximum speed limits apply, would endanger public safety by reason of a traffic hazard or obstruction of road users, contravening the development objective and as such, would be contrary to the proper planning and sustainable development of the area.’
- The submitted Site Layout Map in regard to this planning application in 2001 included specifying ‘Existing dwelling to be demolished’, see history documents forwarded by the Planning Authority – and demolition of the existing dwelling is also now proposed.
- Further to site inspection, in my opinion it is evident that the proposed development of a new dwelling on the subject site, would result in an intensification of use of the existing evidently infrequently used access at the subject site onto the N5 contrary to as submitted in the First Party Appeal Grounds.
- Such intensification of use of the existing access would contravene Policy Roads 11 in the Development Plan where stated as follows

including in regard to the Longford – Castlebar Road (N5) as such as a ‘route of strategic importance’:

‘Routes of strategic importance within the County, as outlined below, shall be protected from further access creation and intensification of existing accesses and development on national routes shall be actively discouraged.’

- The proposed replacement dwelling constitutes a new dwelling on the subject site contrary to as stated in the First Party Appeal Grounds: ‘There is no new housing being created’. Also the Appeal Grounds statement that ‘replacing the existing dwelling’ would not ‘create a planning precedent’ is not accepted in regard to proposed replacement of similar-type disused houses on national routes.
- The Appellant has not submitted information as required in regard to Rural Housing Policy CS 12 in the Development Plan in regard to the ‘Categories of Applicant’ as set out therein:
‘The following categories of applicant shall be considered for the development of housing in the rural area with a view towards sustaining rural communities:
Members of farm families, seeking to build on the family farm.
Landowners with reasonably sized farm holdings who wish to live on their land.
Members of the rural community in the immediate area, this includes returning emigrants or other children with remaining substantial family or community ties, who wish to permanently settle in the area.
Person whose primary full or part-time employment is locally based or who are providing a service to the local community.’
- I note Policy HOU RUR 2 in the Development Plan states:
‘In terms of rural housing, Longford County Council recognises the need of applicants defined within policy CS 12 to locate in their own rural areas. These cases shall be assessed on their merits, with regard being had to ability of the applicant and/or proposed resident to provide, at their own expense, the services required to sustain the proposed development without detrimental impact on road safety, water quality, public health or environmental and landscape integrity.’
- I note Policy HOU RUR 3 includes stating as follows:
‘Outside designated settlements and development envelopes, there shall be a presumption against extensive urban generated

commuter development, ribbon development, development by persons who do not intend to use the dwelling as their primary residence and unsustainable, speculator driven residential units...'

- Having reviewed the above Development Plan Policy statements, I consider that the stated Reasons and Considerations No. 2 of the notification of decision of the Planning Authority to refuse outline permission for the proposed dwelling, are appropriate in this case contrary to as submitted in the First Party Appeal Grounds.
- I note the First Party Appeal Grounds submissions in regard to the stated Reasons and Considerations No. 3 of the notification of decision of the Planning Authority and specifically that there was no 'proposed effluent treatment system' as specified in the wording of Reasons and Considerations No. 3.
- The First Party Appeal Grounds are noted where stated in regard to the proposed development:
'My client did not apply for a replacement septic tank and/or percolation area. All he sought permission for was a replacement house. Further information was not sought in respect of percolation test etc. There is an existing trouble-free septic tank already on the site which my client is entitled to continue to use.'
- However 'the existing septic tank' already on the site is located immediately to the rear of the existing dwelling – as specified 'Existing Septic Tank to be Used' to the rear of 'Existing Dwelling to be Demolished' on the Site Layout Plan submitted in regard to the previous planning application (Ref. No. PL01/289) on the subject site, see history documents forwarded by the Planning Authority.
- The submitted Site Layout Plan in regard to the present planning application indicates a 'Proposed Polishing Filter and Treatment System' in a location to the rear of the proposed new dwelling as set back on the subject site, and as such contrary to as submitted in the First Party Appeal Grounds, the proposed development does include a 'proposed treatment system'.
- I note in this regard however the submitted Site Suitability Assessment included in the First Party Appeal Grounds. In these circumstances and noting the substantive Reasons and Considerations Nos. 1 and 2 in the notification of decision of the Planning Authority which are considered appropriate to the present proposed development, I consider that Reasons and

Considerations No. 3 in the notification of decision of the Planning Authority should be omitted.

Appropriate Assessment

Having regard to the location of the subject site and to the nature and scale of the proposed development, I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

10. CONCLUSIONS AND RECOMMENDATION

In conclusion, further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area, having regard to the relevant provisions of the 2005 – 2021 Longford County Development Plan which are considered reasonable. Accordingly, I recommend that outline permission be refused for the proposed development for the Reasons and Considerations stated in the Schedule below.

DECISION

REFUSE outline permission for the proposed development for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

1. Policy ROADS 11 in the 2015-2011 Longford County Development Plan states that routes of strategic importance within the county including the Longford – Castlebar National Primary Route N5 ‘shall be protected from further access creation and intensification of existing accesses and development on national routes shall be actively discouraged’. The proposed development would result in intensification of use of an existing access located along the N5 National Primary Route in a location where maximum speed limits apply, and would endanger public safety by reason of a traffic hazard and obstruction of road users in contravention of the policy in relation to control of frontage development on national roads as stated in the Spatial

Planning and National Roads – Guidelines for Planning Authorities published by the Department of Environment, Community and Local Government in 2012, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted to the planning authority, the proposed development of a replacement dwelling for the existing long-disused dwelling on the subject site which was recently purchased in 2013, does not fulfil a specific rural housing need in accordance with the requirements of Policy CS 12 of the 2015 – 2021 Longford County Development Plan. The proposed development would therefore contravene the stated policy in the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

DERMOT KELLY
SENIOR PLANNING INSPECTOR

4th February, 2016.

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APPENDIX A - LOCATION MAP
APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)
APPENDIX C - DEVELOPMENT PLAN