



An  
Bord  
Pleanála

## Inspector's Report PL19.246844

### Development

Permission for construction of a new dwelling house, septic tank and percolation area, creating new entrance at existing entrance point to proposed site off internal farm roadway and all other associated works, at Boveen, Brosna, Birr, Co.Offaly.

### Planning Authority

Offaly County Council.

### Planning Authority Reg. Ref.

16/2.

### Applicant(s)

Christopher Molloy.

### Type of Application

Permission.

### Planning Authority Decision

Grant permission with conditions.

### Appellant(s)

Transport Infrastructure Ireland (3<sup>rd</sup> Party vs. Grant).

### Observer(s)

None.

### Date of Site Inspection

22<sup>nd</sup> September 2016.

### Inspector

C. Kellett.

## **1.0 Site Location and Description**

- 1.1. The appeal site is located at the end of a private lane which provides access off the N62 National Secondary Road to an existing farm house and farm buildings. The site is approximately 10km south of Birr and 8km north-west of Roscrea. The N62 is a single lane carriageway connecting Birr and Roscrea. The area is rural in nature with a substantial number of dwellings in the general vicinity of the site directly accessing the N62 road. At the junction of the lane with the N62, there is an uninhabited dwelling which is not part of the land owned by the applicant. The site is located within the 100kph speed limit.
- 1.2. The proposed site for the new dwelling, stated as being 0.3Ha, is a field just to the north of the existing family farmhouse where the applicant and his wife currently reside with his parents. The field is elevated and surrounded by mature trees and hedgerows. The field is currently in agricultural use. The house is proposed to be sited in a low point of the field. The overall farm area is stated as being 91acres (36.8Ha).
- 1.3. Appendix A includes a map and photos of the development.

## **2.0 Proposed Development**

- It is proposed to construct a new dwelling house, septic tank and percolation area, create a new entrance off the private laneway almost opposite the existing farmhouse.
- The proposed new dwelling is a two storey house of a similar design to the existing farmhouse. It will be 11.1m wide, 12.5m long, with an overall height of 8.2m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority issued a decision to **grant permission** subject to 15 standard conditions.

### 3.2. Planning Authority Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Reference to pre-planning meeting where the National Road Policies in the County Development Plan and the Spatial Planning and National Roads Guidelines were explained to the applicant.
- Considers main issues for assessment are Development Plan policy, Roads and Traffic Safety, Public Health, Siting and Design, Residential Amenity, Appropriate Assessment and other screening.
- Considers Development Plan policies STAP15, 16, 17 and 18 applicable which refer to development requiring access to national roads.
- Considers the applicant has not demonstrated compliance with the requirements of paragraph 2.5 of the "Spatial Planning and National Roads Guidelines for Planning Authorities".
- Recommends a Request for Further Information (FI) with respect to; 1) demonstrate applicant is a full time farmer, 2) demonstrate compliance with paragraph 2.5 of "Spatial Planning and National Roads Guidelines for Planning Authorities", and 3) Submit amended layout drawing to provide sightlines of 215m.
- Notes that the applicant responded to the FI adequately with respect to being a full time farmer and having lived in his parent's house all his life. Notes that the applicant needs to live near the farm to be beside his livestock and that the applicant and his wife already access the laneway because it is the only access to the farm, therefore there will not be any increase in traffic with the proposed development.

- Considers that the applicant does comply with policy STAP 18 and recommends a grant of permission.
- The decision was in accordance with the Planning Recommendations.

### 3.3. Other Technical Reports

The application was referred to:

- Area Engineer – no objection.
- Road Design – no objection subject to conditions.
- Environment and Water services – no objections subject to conditions.

Prescribed Bodies:

- TII – objection – application would create an adverse impact on a national road; and would create intensification of an existing direct access to a national road.
- OPW – no observations.

### 3.4. Third Party Observations

- None.

### 4.0 Planning History

- Reg. Ref. 82/24: Original permission for existing dwelling house.

### 5.0 Policy Context

#### 5.1. Offaly County Council Development Plan 2014-2020.

Chapter 1 outlines the Core Strategy. Chapter 4 of the Plan refers to Infrastructure and Environment Strategy, and Chapter 8 refers to Development Management Standards.

Table 1.5 Settlement Hierarchy and Planning Principles for development, refers to the Open Countryside. It is stated that the Council recognises the need to sustain

rural communities through the provision of housing coupled with the countryside's agricultural function and other rural landuses.

Section 1.16 refers to Settlement Strategy Policies - Rural Housing Design policy includes:

**SSP-17** *It is Council policy to encourage and promote quality design, appropriate scale, form, informed siting, quality materials and finishes and to incorporate where possible and practicable, the best principles and mechanisms for sustainability and energy efficiency.*

*In addition, it is also Council policy to ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations including the following (inter alia)<sup>1</sup>:*

- *The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding.*
- *The ability to provide safe vehicular access to the site.*

SSP-18 specifically refers to Rural Housing Policy – Local Need but only for areas considered “Pressure Areas”. The proposed development is not located in a “Pressure Area”.

Section 4.5.4 of Chapter 4 refers to Roads and in particular “Access to National Roads”. It is stated:

*“In order that the effectiveness of past and future public investment in road improvements should not be diminished in whole or in part and to ensure the safety and free flow of traffic, future development requiring direct access onto National Secondary routes will be curtailed and assessed against the provisions of Guidance*

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<sup>1</sup> Items of relevance included only

*for Planning Authorities entitled Spatial Planning and National Roads issued by the DoECLG in January 2012 as outlined in Table 4.2”*

Table 4.2 states that Lands adjoining National Roads to which speed limits greater than 60kph apply, it is the policy *“To avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses to national roads for all development types”*.

Specific relevant policies are:

**STAP-15:** *It is the Council policy to facilitate development of the road network in Offaly and the Midland Region in accordance with the National Development Plan and with Government policy. The Council will also support the relevant agencies and bodies involved in achieving such development including the National Roads Authority and the National Transport Authority.*

**STAP-16:** *It is Council policy to strictly control development, outside of identified settlements, which could generate significant additional traffic, thereby potentially compromising the capacity and efficiency of the national roads/restricted regional roads and associated interchanges and possibly lead to the premature and unacceptable reduction in the level of service available to road users. This policy will also apply to national roads which may be downgraded during the lifetime of this Plan but which will still comprise high quality regionally important links.*

**STAP-17:** *It is Council policy to protect the safety, capacity and efficiency of national roads and associated junctions.*

**STAP-18:** *It is Council policy that development(s) requiring a new direct access or an intensification of an existing access onto National Secondary road, or onto a privately owned road leading onto National Secondary road where a speed limit greater than 50 km/ph applies will be restricted in accordance with the provisions of Spatial Planning and National Roads Guidelines for Planning Authorities, January 2012. Exceptional circumstances may be considered where the development is of*

*National and Regional Strategic Importance and complies with the criteria set out in the Spatial Planning and National Roads Guidelines in this regard.*

Section 8.7 refers to Development Management Standards for Single Houses in the Countryside. The Plan refers applicants to the Planning Authority Design Guidelines for the County.

## 5.2. Natural Heritage Designations

There are no designated sites within the vicinity. Sharavogue Bog SAC (Site Code 000585) is located approximately 3.5km north-west of the proposed site

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal against the decision to grant permission has been lodged by Transport Infrastructure Ireland (TII).

The grounds of appeal can be summarised as follows:

- The permission would be at variance with official policy to preserve level of service and carrying capacity of national roads.
- The permission has the potential to compromise safety and efficiency of the national road network at this location, where a 100kph speed limit applies.
- The Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, 2012) state in relation to lands adjoining national roads to which speed limits of greater than 60kph apply, that the policy will be to avoid the creation of additional accesses or the generation of increased traffic from existing accesses.
- Provision of a new house at this location will bring about additional vehicular movements onto and off the N62, arising from day to day occupation, patterns of activity, services, visitors etc.

- TII is of the opinion that the grant of permission is inconsistent with the provisions of the Offaly County Development Plan, in particular policies STAP-17 and STAP-18.
- TII acknowledges that the Spatial Planning and National Roads Guidelines do provide a mechanism whereby a less restrictive approach may be applied to control of development – however, the Guidelines advise that such areas would be confined to lightly trafficked sections of national secondary roads serving structurally weak and remote communities – such circumstances are not reflective of the N62.
- Reference is made to road accident statistics and data from the RSA which demonstrates that accesses and turning movements generated are a prime cause of road accidents. The government has endorsed the Road Safety Strategy which has set down a target of reducing the number of accesses onto national roads by 5% by 2020.

## 6.2. **Planning Authority Response**

The Planning Authority responded stating they have no further comments but request the Board to uphold their decision.

## 6.3. **Applicant's Response**

The First Party response to the appeal includes:

- Submission from the applicant's Architect, a personal letter from the applicant, a confirmation letter from Irish Angus Cattle Society Ltd., stating that the applicant is a very active member of the society with animals from his herd being the foundation stock for many new members, and a letter from An Garda Síochána stating that the proposed dwelling would not increase vehicular traffic entering the N62 and on that basis there is no obvious evidence that road safety would be compromised.
- The applicant's Architect states that this new dwelling is not creating a new entrance onto the N62. It is using an existing entrance which serves the parents farmhouse and farm buildings – there is no other choice of entrance.



- It is further stated that the applicant will continue to operate his farm in whatever capacity he chooses and it does not matter what patterns of activity or movement it generates – there is no control over its usage, now or ever.
- The applicant states that he and his wife already live at his parent’s house on the farm. Building their own house will not generate any additional traffic.
- If the applicant cannot live on the farm and is forced to live elsewhere, that will result in additional traffic due to travelling to and from the farm, social visits, babysitting etc.
- A Bus Eireann School Bus uses this laneway 4 times per day during school terms for the last 15 years. Engineers from Bus Eireann have examined the laneway and deemed it safe for use.
- The applicant’s livelihood will be affected if he cannot live on the farm. The nature of his farming requires him to be there throughout the night especially during calving season. Driving to and from the farm would lead to unnecessary, additional traffic in a fatigued state.

#### 6.4. **Observations**

None

#### 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following heading:

- Development Plan Policy
- Road Safety.

## 7.2. Development Plan Policy

The proposed site is located in an area considered to be Tier 6 “Sráids and Open Countryside” in the County Development Plan and is not in a “Pressure Area”. It is stated that the Council recognises the need to sustain rural communities through the provision of housing coupled with the countryside’s agricultural function and other rural landuses. In accordance with Policy SSP-17, the Council requires proposals to comply with other considerations such as the capacity of the area to absorb further development i.e. the extent of ribbon development, and the degree of development on a single landholding. This particular proposal will not contribute towards “ribbon development” nor will it contribute towards over development on this landholding.

Policy SSP-17 also requires the applicant to provide safe vehicular access to the site. The applicant has demonstrated that sightlines of 215m either side of the lane entrance can be achieved.

Based on these facts, I am satisfied that this proposal would comply with Policy SSP-17.

## 7.3 Road Safety.

Policy STAP-18 states that it is Council policy that development requiring intensification of an existing access onto a National Secondary road, or onto a privately owned road leading onto a National Secondary road where a speed limit greater than 50 kph applies, will be restricted. I am of the opinion that the fundamental issue in this case, is whether or not the proposed new dwelling would lead to an intensification of use of an existing access. There is no new access onto the N62 proposed as part of this application.

The applicant states that he and his wife already live in the existing farmhouse with his parents and therefore there will be no intensification of the existing use. The appellant, Transport Infrastructure Ireland, states that intensification will occur due to

normal daily activities arising from day to day occupation, patterns of activity, services, visitors etc.

The applicant states that this is the only entrance/exit to the farm and that the laneway has been in use for over 100 years. Furthermore, the applicant states that intensification would occur because of increased traffic coming and going to the farm if he cannot live on the farm due to daily farm activities and normal social visits.

I consider, on the basis of the facts presented, that there will not be a significant intensification of use of the existing entrance should the subject proposal be granted permission. The applicant has stated that he is a full time farmer and needs 24-hour access to the farm, which he currently has residing in his parents' home. Whilst I accept that a second dwelling off this lane will inevitably lead to an increase in traffic, I am satisfied that in this particular instance, it is not significant and a greater increase in traffic would occur if the applicant has to travel to and from the farm, if not residing on the farm.

I note that this is the only access to the farm and I am satisfied that the lane will continue to be used for access, regardless of where the applicant resides, and therefore it is unlikely to be an access that will be closed, in accordance with the Road Safety Strategy 2013-2020, which sets down a target of reducing the number of accesses onto national roads by 5% by 2020.

Should the Board decide to grant permission, I would consider it appropriate that an occupancy condition is applied in this particular circumstance, to ensure that there is no intensification of the use of the access caused by future persons not engaged in farming activity.

Therefore, I am of the opinion that the proposed development will not lead to an intensification of use of the entrance, and will not conflict with policy STAP-18.

### 7.3. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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.

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

### Reasons and Considerations

Having regard to the provisions of the County Development Plan, the proposed use of an existing access and the absence of an alternative site owned by the applicant which is not served by a national road, availability of satisfactory sightlines, and the relationship of the development to the agricultural use of the lands, it is considered that the proposed development, subject to the conditions set out below, would be acceptable in terms of traffic safety and convenience, would not set a precedent for access onto national roads and would therefore be in accordance with the proper planning and sustainable development of the area.

### Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 11th day of May 2016], except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

4. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

**Reason:** In the interest of public health.

5. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

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

6. The external walls shall be finished in neutral colours such as grey or off-white.

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

7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

**Reason:** In the interest of traffic safety and to prevent pollution.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development

Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Ciara Kellett  
Senior Planning Inspector

3<sup>rd</sup> October 2016

**Appendix A: Location Maps and Photographs.**