



An
Bord
Pleanála

Inspector's Report 247280.

Development	Construction of a house and associated works.
Location	Crockacullion, Beltra, Co Sligo.
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	15/447.
Applicants	Peter Kearins & Tanya Higgins.
Type of Application	Permission
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant	Transport Infrastructure Ireland.
Date of Site Inspection	17 th November 2016.
Inspector	Dolores McCague.

1.0 Site Location and Description

1.1. The site is located at Crockacullion, Beltra, Co Sligo along a private laneway off the N59 National Secondary road.

2.0 Proposed Development

2.1. The proposed development is the construction of a two storey house 301.12m² in floor area, serviced by an on-site effluent treatment system.

2.2. Further information request 11/2/16 – 4 items

- new site assessment and percolation tests;
- compliance with policies 5.7.2; and 12.6.2;
- wetland site - Ecological Assessment
- legal entitlement to use lane.

2.3. Further information submitted 5/8/16 –

- site assessment details including percolation tests; details to take account of the size of the house;
- details applicant's personal circumstances – (5.7.2);
- details responding to 12.6.2 of the CDP re access. The access to the site is via an existing road, the road currently used by 2 other dwellings and 2 farm holdings. The Kearins have an access to their private dwelling house off this road. They have an agricultural gate into the site at present. As the applicant, Peter, resides at his parent's property there will be no additional traffic movements generated by the provision of a separate house for Peter and his partner. The removal of the farm entrance will in fact reduce traffic movements.
- an Ecological Impact Assessment;
- details re. ownership/use of the lane.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 10 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

8/02/2016 requesting further information

19/08/2016 - following receipt of further information, stating satisfaction with the responses. Referring to: Environment Section, Area Engineer, Road Design, as having no objections; and Heritage Officer as no objections so far. Irish Water: conditions. TII: adverse impact on the national road where the max. speed limit applies and at variance with national policy in relation to the control of frontage development. Letter of objection from solicitor stating that the applicants do not have a right of way via the accessway off the N59.

Planning assessment – no new access is being created and no additional traffic onto the N59 is being created as the applicant currently lives in his parent's home with access directly onto the N59. There would be no impact on the road network, per reports from Road Design. The Area Engineer has requested a 5.5m setback of the roadside boundary for the entire site frontage. This is not considered necessary. House design was approved during pre-planning consultations. No impact on a Natura site. Environment Section is satisfied with wastewater treatment. Applicant has submitted a letter from a landowner who claims she jointly owns the access road and gives her consent to the applicant's use of this road. Permission recommended.

3.2.2. Other Technical Reports

Environment Section – 17/8/16 – post further information – conditions.

Environment Section – 6/1/16 – requesting further information – site assessment was carried out at a high point of this sloping site which is not representative of conditions on site.

Heritage Officer – 25/1/16 – a small portion of the site is within an indicative boundary of a potential wetland site as previously recorded through desk top mapping undertaken as part of the County Sligo Wetland Survey 2018-2011, the wetland site has yet to be fully surveyed and evaluated. Recommending an Ecological Impact Assessment

Area Engineer – 20/1/26 – conditions.

Roads Design – 20/1/16 – AADT of approx. 3000; in this particular circumstance the applicant will be farming the retained land and would require travel to the farm daily. This would generate traffic in itself, if the applicant was to live away from the area. The granting of this application would therefore not increase the volume of traffic from the existing access.

3.3. Prescribed Bodies

Irish Water 15/9/16 – conditions.

TII – 15/8/16 referring to previous submission.

TII – 6/1/16 – at variance with policy. 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 reason:

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 increase 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.

3.4. Third Party Observations

Letter from Burns Nowlan Solicitors, on behalf of PJ Clark stating that the applicants have no right or entitlement to access the right of way which is a private roadway.

4.0 Planning History

PL08-835 Peadar Kearins (father of current applicant) – permission granted 2008, for the construction of a dwelling house and septic tank on the subject site – subject house is 1m higher and 100 sq m larger than that permitted.

Adjacent sites

PL08-549 - Colm Clark - permission granted for construction for a house.

PL04-601 – Cathal Clark permission refused for construction for a house: 5 reasons – traffic hazard, public health, visual impact, sporadic housing development, house design.

Pre planning PP2887 – no objections.

5.0 Policy Context

5.1. Development Plan

Sligo County Development Plan 2011-2017 is operative plan.

In Volume 1 'Written Statement', relevant provisions include:

Rural housing 5.7 - In formulating policy on rural housing, the Council will consider whether a proposal is classed as rural generated housing or urban-generated housing, as defined in subsections 5.7.2 and 5.7.3 of this Plan. 5.7.1 Rural housing strategy classifies areas according to the pressure for housing. The site is located in a Rural Areas Under Urban Influence. The plan policy aim is to manage the pressure of urban-generated housing in the Sligo City Subregion and in those areas that are considered to be under urban influence, while facilitating rural-generated housing need. Section 5.7.2 provides the policy basis for considering persons for permission

for rural houses from among 4 categories: a) those whose primary employment in rural-based activity; b) those wishing to build within the rural community in which they have spent a substantial and continuous part of their lives; c) those who have vital links to the rural community in which they wish to reside, by reason of having lived in this community for a minimum period of seven years or by the existence in this community of long established ties with family members; d) exceptional reasons.

National roads - Policy P-RHOU-3, f) Ensuring the safe operation of key transport arteries, particularly national primary and secondary roads and the rail network. Access to national roads shall be restricted in accordance with DoEHLG's *Draft Spatial Planning and National Roads Guidelines for Planning Authorities* (June 2010).

SP-MOB-8 (Mobility – strategic policies) Protect the traffic carrying capacity of national roads, the level of service they deliver and the period over which they continue to perform efficiently, by avoiding the creation of new access points or the generation of increased traffic from existing accesses onto the N4, N15, N16, N17 and N59 outside the 50 km/h speed limit, in accordance with the DoEHLG's publication *Draft Spatial Planning and National Roads Guidelines for Planning Authorities* (June 2010).

Objective O-NR-2 restrict new access points onto national roads in accordance with the DoEHLG's publication *Spatial Planning and National Roads (Draft) Guidelines for Planning Authorities*, in order to maintain traffic capacity, minimise traffic hazard and protect and maximise public investment in such roads.

Table 8.B - National road projects in County Sligo includes: N59 Ballysadare to Mayo County boundary, where improvements are ongoing.

Section 12.6.2 In accordance with this national policy and in the interest of safe traffic flow, it is the policy of the Council not to permit any new means of access along national roads N4, N15, N16, N17 and N59 outside the 50 km/h speed limit, in accordance with the DoEHLG publication *Spatial Planning and National Roads*

(Draft) Guidelines for Planning Authorities, in order to protect these roads. Limited exceptions may be considered, provided the proposed access can be shown not to cause a traffic hazard.

5.2. **Spatial Planning and National Roads Guidelines 2012 (DoECLG)**

These guidelines issued under Section 28 of the Planning and Development Act, 2000 and are therefore guidelines to which Planning Authorities and An Bord Pleanála are required to have regard.

Section 2.5 of the Guidelines sets out the required development plan policy on access to national roads. On lands joining national roads, to which the speed limit of greater than 60 kmph applies, the Planning Authority will avoid the creation of additional access points from new development and the generation of increased traffic from existing accesses to a national road. This provision applies to all categories of development including individual houses in rural areas regardless of the housing circumstances of the applicant.

Exceptional circumstances (Section 2.6) - notwithstanding the provisions of Section 2.5 a planning authority having consulted and taken on board the advice of the NRA as part of the process of reviewing or varying the development plan, may identify stretches of national road where less restrictive approach may be applied: in relation to (1) *Developments of national or regional strategic importance* or (2) *Lightly trafficked sections of national secondary routes*.

In relation to lightly trafficked sections of national secondary routes the Guidelines state that policies in development plans permitting new accesses to national secondary roads may be considered acceptable where the following criteria apply:

- *Traffic volumes are low and are forecast to remain below 3,000 AADT*
(as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.

Where planning authorities wish to identify an area/national road where the foregoing less restrictive approaches could apply in a development plan or local area plan they must:

- (a) Consult with the NRA at the earliest practicable stage in reviewing the development plan on the identification of areas and developments that the planning authority considers represent exceptional circumstances, taking the criteria above and below into account; and
- (b) Ensure that any submissions from the NRA have been fully and properly considered within the process of preparing the plan.

5.3. Sustainable Rural Housing Guidelines

These guidelines issued under Section 28 of the Planning and Development Act, 2000 and are therefore guidelines to which Planning Authorities and An Bord Pleanála are required to have regard.

The guidelines provide that people who are part of the rural community should be facilitated in their housing needs.

Section 3.3.4 of the Guidelines relates to transport. It states that the objectives and policies of the development plan should make it clear that direct access for future development should not be permitted to national roads outside the speed limits for towns and villages.

5.4. Natural Heritage Designations

Ballysadare Bay SAC (site code 622) is over 500m from the subject site. Beyond the drain, which forms the site boundary, there is an area of polder with the townland name 'Tanrego Intake' which was created post late 1850's sea dyke construction across Beltra strand, to reclaim it from the sea.

6.0 The Appeal

6.1. Grounds of Appeal

Transport Infrastructure Ireland has appealed the decision on the basis that it would result in the intensification of a direct private lane access to the N59 at a point where the 100kph speed limit applies.

They consider that it would be at variance with official policy to preserve the level of service, safety and carrying capacity of national roads and to protect the public investment in such roads as outlined in the Spatial Planning and National Roads Guidelines for Planning Authorities, (DoECLG 2012), and would establish an undesirable precedent for further similar development.

The Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, 2012) – the policy in relation to lands adjoining national roads with speed limits greater than 60kph, is to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads. The provision applies to all categories of development (S2.5). TII considers that the provision of a new additional house accessing the N59 at the location concerned, regardless of the housing circumstances of the applicant, will inevitably bring about additional vehicular movements resulting in intensification of the access onto and off the N59, arising from the day to day occupation, patterns of activity associated with same and trips generated by other services, utilities, visitors, etc. as well as the applicant, and as such the proposal is considered to be variance with official policy. The TII does not concur with the observations made in the Sligo County Council Roads Design report that a grant of permission would not increase the volume of traffic from the existing access. The decision conflicts with this objective.

Road accident statistics demonstrate that accesses and the turning movements generated are a prime cause of road accidents. The road safety strategy 2013-2020 sets down a target of reducing the number of accesses onto national roads by 5% by 2020 to reduce the risk of serious injury and death on our national roads.

Conflict with CDP Policy P-RHOU-3 (f); SP-MOB-8; objective O-NR-2 and Section 12.6.2 arising from the inevitable increase and intensification of turning

movements onto and off the N59 what would arise. Exceptions noted in Section 12.6.2 are not considered to be in accordance with Section 2.6 of Guidelines - the Spatial Planning and National Roads Guidelines for Planning Authorities, (DoECLG 2012), nevertheless, the subject application does not satisfy the exceptions in the CDP.

No exceptional reason has been put forward which would justify a departure from standard policy and road safety considerations in this instance. The applicant works in Ballina and the family landholding is small. It is considered that the proposed development, in conjunction with other development, accessed via the private laneway, by itself and by the precedent that a grant of permission would create, would endanger public safety by reason of traffic hazard due to the additional traffic, including turning movements, that would be generated onto the national route N59 at a point where a speed limit of 100kph applies, and would interfere with the free-flow of traffic on the road.

No record of consultation on the earlier permission granted under ref 08/835 has been found. The grant of permission predates the current CDP and the Guidelines.

The grounds cites statistics to demonstrate the importance of avoiding the creation of access and turning movements on national roads.

The authority acknowledges that the access is existing, however, in conjunction with the existing dwellings, it is not considered that this offsets the traffic hazard created by the inevitable additional traffic associated with a new dwelling, including turning movements, that would be generated.

The Authority refers to the fact that the Board will be aware of the priority to ensure adequate maintenance of the national road network in order to protect the value of previous investment outlined by Government in the Infrastructure and Capital Investment 2012-2016: Medium Term Exchequer Framework and reiterated in Building on Recovery: Infrastructure & Capital Investment, 2016-2021, where the challenge to maintain and safeguard investment in transport and infrastructure is identified.

6.2. Applicant Response

Plan Design Associates, has responded to the grounds of appeal on behalf of the first party. The TII have failed to note that the applicant currently lives with his parents. The applicants mother requires assistance with day to day living. The applicant provides this assistance by living at this location and such assistance would have to be provided by others if he moves; which would generate additional traffic movements. The applicant is prepared to make alterations: to remove the green area located directly outside his parent's property and to tar this area to provide a pulling in lane, and to share the entrance with his parent's house.

The lands are maintained by Peter Kearins. If he relocates he will still need to access on a daily basis. His mother requires assistance and traffic movements would be increased by a refusal.

Planning authority reports on file are cited.

There is no record of accidents at this location in recent years, sightlines are excellent.

The national guideline is not a statutory instrument; the guidelines have been adhered to.

The response is accompanied by a revised site layout plan and other documents.

6.3. Planning Authority Response

Refers to planners' reports.

6.4. Further Responses

TII have responded to the first party response –

The N59 is situated in counties Galway, Mayo and Sligo and connects Galway City to Ballysadare in County Sligo via a number of diverse villages and towns including Ballina, Crossmolina, Newport, Westport and provides access to towns such as Enniscrone and Easkey. It is regionally and locally important as it provides access to the coastline between Connemara, Mayo and Sligo. The route connects with the N4, N26, N5 national primary roads at Ballysadare, Ballina and Westport respectively

and connects with the N6 and N17 national primary roads and the N84 national secondary road at Galway. The route is one of natural beauty and is significant from a national tourist perspective as it forms part of the very popular Wild Atlantic Way which encourages additional road users to this area.

They restate their opinion that the proposed house will inevitably result in additional traffic movements onto and off the national road, not just trips by the applicant.

Re. section 2.6 of the guidelines: the application of a less restrictive approach to control of development, this is to be confined to lightly trafficked sections of national roads serving structurally weak and remote communities where a balance needs to be struck between the important transport function of such roads and supporting the social and economic development of these areas. Sligo County Council has not demonstrated that such circumstances apply. The Engineers report states that this section of road has an AADT of approx. 3,000. TII's traffic count for 2015 indicates an AADT for the N59 further west to be 3,725 and already partial data for 2016 indicates an increase to 3,890 AADT; it would be expected that traffic on this popular touring route would increase.

Acknowledging the importance of this route TII has continually invested in N59 pavement upgrades in the Sligo area.

The reported observations of An Garda Síochána concerning road accident statistics are noted, however it is not considered that this offsets the traffic hazard that would be created by the additional traffic associated with a new dwelling, including traffic turning movements that would be generated onto the national route N59 at a point where a speed limit of 100kph applies, and would interfere with the free-flow of traffic on the road.

The particular circumstances of the applicant are acknowledged but no exceptional reason that would justify a departure from standard policy and road safety considerations has been put forward.

The Board will note that the guidelines take precedence over the development plan.

Planning Authority

The Planning Authority have further responded to the first party response, stating in relation to the revised entrance proposal, that the submitted drawing does not contain adequate detail in relation to the design of the entrance and available sightlines along the N59 to enable a complete assessment of this new proposal. The existence of two entrances to the applicant's parents' dwelling is noted and has not been addressed in this submission. From a landscape perspective access via an existing laneway is more suitable than the construction of a 50m access through a green field.

7.0 Assessment

7.1. The issues which arise in relation to this development are: roads issues, and appropriate assessment and the following assessment is addressed under these headings

7.2. Roads Issues

The Spatial Planning and National Roads Guidelines 2012 (DoECLG), were issued under Section 28 of the Planning and Development Act, 2000 and are therefore guidelines to which An Bord Pleanála are required to have regard. They state that on lands joining national roads, to which the speed limit of greater than 60 kmph applies, the Planning Authority will avoid the creation of additional access points from new development and the generation of increased traffic from existing accesses to a national road. This provision applies to all categories of development including individual houses in rural areas regardless of the housing circumstances of the applicant.

Exceptional circumstances provided for in the Spatial Planning and National Roads Guidelines (2.6), related to development along a national road, arise where development is of national or regional strategic importance or located along lightly-

trafficked sections of national secondary routes. The latter situation could arise where:

- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.

In addition, the stretches of national road where the general restriction can be lifted, based on the foregoing criteria, must be identified in the County Development Plan or Local Area Plan following consultation with the NRA. Such stretches of road have not been identified in the Sligo County Development Plan.

The traffic volumes along this stretch of road are not below 3,000 AADT. TII's traffic count for 2015 indicates an AADT for the N59 further west to be 3,725 and already partial data for 2016 indicates an increase to 3,890 AADT; and they further state that, based on this being part of the popular touring route Wild Atlantic Way, it would be expected that traffic levels would increase. The exceptional circumstances provided for in the Spatial Planning and National Roads Guidelines (2.6) do not therefore apply.

From the information on the file it is likely that there is no suitable alternative non-national public road access available on the landholding of 1.46ha. I concur with the opinion of the TII that regardless of the housing circumstances of the applicant, the proposed development will inevitably bring about additional vehicular movements resulting in intensification of the access onto and off the N59, arising from the day to day occupation, patterns of activity associated with same and trips generated by other services, utilities, visitors, etc. as well as the applicant.

I concur with the opinion of the TII that the proposed development would be at variance with official policy.

I concur with the opinion of the TII that the proposed development, in conjunction with other development, accessed via the private laneway, by itself and by the precedent that a grant of permission would create, would endanger public safety by reason of traffic hazard due to the additional traffic, including turning movements, that would be generated onto the national route N59 at a point where a speed limit of 100kph applies, and would interfere with the free-flow of traffic on the road; and I consider that this should be a reason to refuse permission.

7.3. **Appropriate Assessment**

8.0 Having regard to the nature and scale of the proposed development and 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.

9.0 **Recommendation**

9.1.1. In light of the foregoing assessment I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out below.

10.0 Reasons and Considerations

1 The proposed development would endanger public safety by reason of traffic hazard because the site is located alongside the National Primary Road N59 at a point where the general speed limit of 60 mph applies and the traffic turning movements generated by the proposed development would interfere with the safety and free flow of traffic on the public road.

2 The proposed development, by itself or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of the national road by traffic.

Dolores McCague
Planning Inspector

16th December 2016

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| Appendix | 1 | Map and Photographs |
| Appendix | 2 | Copy extracts from Sligo County Development Plan 2014 – 2020 |
| Appendix | 3 | Copy extracts from Spatial Planning and National Roads Guidelines for Planning Authorities |
| Appendix | 4 | NPWS map showing protected sites in the area. |