



An
Bord
Pleanála

Inspector's Report PL19.249027.

Development	Single storey dwelling house.
Location	Garbally, Blueball, Tullamore, County Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	17/188.
Applicant	Sinead Heffernan.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant	Sinead Heffernan.
Observer(s)	None.
Date of Site Inspection	6 th November 2017
Inspector	Philip Davis.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision.....	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies.....	4
4.4. Third Party Observations	5
5.0 Planning History.....	5
6.0 Policy Context.....	5
6.1. Development Plan.....	5
6.2. Natural Heritage Designations	5
7.0 The Appeal	5
7.1. Grounds of Appeal	5
7.2. Planning Authority Response.....	6
8.0 Assessment.....	6
9.0 Recommendation.....	10
10.0 Reasons and Considerations	11

1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for a dwelling in a rural area near the village of Blue Ball in County Offaly. The grounds for refusal relate to the impact on the N52 (material contravention of policy).

2.0 Site Location and Description

The townland of **Garbally** is located on the east side of a limestone escarpment with an overlying esker overlooking the low-lying boglands of west Offaly. The N52 National Secondary Route runs north-east from Birr to Tullamore, generally following the higher ground on the scarp. At Garbally, the route is a wide single carriageway road with a hard shoulder. The area is characterised by mid-sized fields of generally low quality grazing land bounded by low ditches and hedges in addition to a number of gravel and limestone quarries. There is a scattering of individual dwellings along the main road and the minor roads running in either direction from the N52. The nearest settlement is the small crossroads village of Blue Ball, 3.5 km to the northeast. Tullamore is 13 km to the northeast and the small town of Kilcormac is 7 km to the south-west.

The appeal site, with a site area given as 0.75 hectares* on the application form, is a roughly square area of land at a ridge about 50 metres west of the N52. It is part of a larger agricultural holding which includes a dwelling. It connects to the road via an existing farm track, which seems to lead to a small disused gravel quarry on the north-west facing part of the scarp. This track runs parallel to an access driveway to a cottage adjoining the appeal site – this cottage is in a cutting at a lower level than the appeal site. **Northwest** of the site, the land falls away in level and an esker appears to have been excavated for gravel. To the **north** and **north-east** of the site is open land, with a small cluster of bungalows on a minor road approximately 100 km north-east. The N52 is **south-east** of the site, about 50 metres away across a field. There are open fields beyond the main road. To the **south-west** is the cottage and a field, with further scattered dwellings further **south-west**.

**I consider this to be inaccurate – I calculate the site as being approximately 0.25 hectares in extent.*

3.0 Proposed Development

The proposed development is described on the site notice as a single storey dwelling house, effluent treatment system with a soil polishing filter, entrance, well and all associated site works.

4.0 Planning Authority Decision

4.1. Decision

The proposed development was refused planning permission for the reason that it would be contrary to Ministerial Guidelines with regard to development on a National Road and associated policy STAP-18 (material contravention), and would endanger public safety by reason of traffic hazard.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The planning report focuses on road and highway issues and notes policy restricting housing accessing National Primary and Secondary Roads.
- Siting, design, amenity and public health issues are considered acceptable.

4.2.2. Other Technical Reports

Area Engineer: Reservations outlined regarding poor visibility towards Kilcormac and intensification of use of the road. A refusal is recommended.

Roads Design: Recommends refusal.

Environment and Water Services: No objections subject to conditions regarding water borehole and wastewater treatment system.

4.3. Prescribed Bodies

Transport Infrastructure Ireland (TII). Notes official policy to restrict development on national roads. It is considered that the provision of an additional house at this part of the road will inevitably increase turning movements onto and off the N52 at the location where a 100kph speed limit applies.

4.4. Third Party Observations

None.

5.0 Planning History

None on file and the planning authority states that there are none relevant.

6.0 Policy Context

6.1. Development Plan

The appeal site is in open countryside without a specific designation or zoning objective. Policy on rural housing applies. Policy with regard to development on national roads is set out in Table 4.2 and policy objectives STAP-15; STAP-16; STAP-17 and STAP-18 of the Offaly County Council Development Plan 2014-2020. Relevant extracts are attached in the appendix to this report.

6.2. Natural Heritage Designations

The two nearest designated habitats are the Charleville Wood SAC approximately 5km to the north-east, and the Clonaslee Eskers and Derry Bog SAC a similar distance to the south. Clara Bog SAC, Ferbane Bog SAC and Moyclare Bog SAC are all just over 10 km to the north. The Slieve Bloom Mountains SPA is about 8 km to the south. Screggan Bog NHA is about 3 km to the east. The area is within the catchment of the Shannon River.

7.0 The Appeal

7.1. Grounds of Appeal

- It is submitted that the existing sightlines are adequate for the safety of traffic using the existing house and appeal site – it is denied that they are ‘poor’ as described by the Area Engineers report.

- It is argued that there would be no intensification as the application is for a dwelling for a family member within the existing house, and as such there would be no increase in use of the access.
- It is noted with regard to the above that the planning authority did not question the *bona fides* of the application as being for a family member residing at the existing dwelling.

7.2. Planning Authority Response

The planning authority requests that the Board uphold its decision to refuse.

8.0 Assessment

Having inspected the site and reviewed the file documents I consider that the proposed development can be addressed under the following general headings.

- Material contravention
- Principle of development
- Road safety
- Public health
- Landscape
- Other issues
- Appropriate Assessment

8.1. Material Contravention

I note that the planning authority decided to refuse permission for the reason that contravenes materially policy STAP-18. In such circumstances the provisions of subsection 37(2) of the 2000 Act, as amended applies. In such circumstances, the Board may only decide to grant a permission if - in summary - the proposed development is of strategic or national importance, there are conflicting objectives in the development plan, or having regard to the pattern of development or previous decisions in the area. I would consider that in this appeal none of the requirements under S.37(2)(b)(i), (ii), (iii) or (iv) apply.

8.2. Principle of development

The appeal site is within a rural area outside settlement zoned areas. It is not within the 'pressure area' indicated in the development plan. It is indicated in Map 1.3 of Offaly County Development Plan 2014-2020 as on the boundary between a 'Strong Rural Area' and a 'Structurally Weak Area', an assessment I would consider reasonable.

In such areas, policy is set out in SSP-20 of the Development Plan:

SSP – 20 It is Council policy that within areas of the open countryside identified as being:

- *NOT under Rural Housing Development Pressure (refer to Map 1.4), or*
- *NOT in an Area of Special Control (refer to Map 1.4 and SSP – 19),*

There will be a presumption in favour of applications for single houses by persons from within or outside these rural areas who seek a permanent dwelling and will therefore contribute to the social and economic well being of the area. It is the policy of the Planning Authority to prohibit speculative development in these areas. Any application for a single permanent dwelling must be made in the name of the person for whom it is intended and a condition will be attached to any permission granted requiring them to occupy the house in the first instance.

It is unclear from the details in the planner's report, but it is inferred that the applicant qualifies under this policy (which I consider generally consistent with the Departmental 'Sustainable Rural Housing: Guidelines for Planning Authorities, April 2005'). As such, I would consider that the proposed development should be favoured considerably, subject to normal planning criteria and other policy objectives, as outlined in more detail below.

8.3. Road Safety

The appeal site is located next to the N52 National Secondary Road, the main road between Tullamore, Birr and Nenagh. It is a relatively straight and wide single carriageway road with a hard shoulder, with a 100kph speed limit. As such, it falls under national policy for such roads as set out in the 'Spatial Planning and National Roads: Guidelines for Planning Authorities, January 2012.' And the related Development plan policy, 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.

The TII guidelines, with regard to such roads states (Section 2.5):

Lands adjoining National Roads to which speed limits greater than 60 kmh apply:
The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

The proposed development is next to an existing dwelling – part of the family landholding. It is proposed to link to the existing gated access to the main road – there is a parallel farm track that leads up over the ridge to an area of land that seems to be cleared for quarrying or some other use (there is no information on this on file).

The existing access has somewhat poor sightlines to the south – a car exiting from the laneway would have to impinge on the hard shoulder to get a clear view. However, I would consider that it could be brought up to standard by condition as the lands appear to be under the control of the applicant.

The applicant acknowledges the national and local policies which essentially prevent any new developments along national roads except under very restricted circumstances, but argue that as there is an existing entrance, and the applicant already resides at the existing address, there will be no net increase in traffic, and hence no intensification of the use.

While in the very short term this may very well be the case, the reality is that in most circumstances constructing an additional 2-3 bedroom dwelling will over time lead to an intensification of use over and above that existing. Having regard therefore to both national and local policy on developments on national roads, I do not consider that any exceptions apply and I would recommend that the Board uphold the reason for refusal.

8.4. Public health

The site is proposed to be served by a wastewater treatment system and a bored water well. It is not indicated as to whether the adjoining dwelling has a well – none are identified in the vicinity on the GSI website. The site is located on glacial gravels – possibly fluvioglacial (an esker) overlying karstic limestone. The site assessment report submitted with the application indicates very permeable subsoils at least 3 metres thick. Groundwater was not identified down to 3 metres or more. It overlies an aquifer indicated as of regional importance and high vulnerability.

While I would have some concerns about the very high permeability of soil over karst, having regard to the depth of the subsurface geology I would consider it likely that the site could be served by a wastewater treatment system with discharge to groundwater in accordance with EPA requirements.

8.5. Landscape

In Table 7.15 of the Offaly County Development Plan 2014-2020 the site is indicated as being within an area of 'high sensitivity'. This seems to reflect the location on a distinct ridge that runs along the western side of the N52. The proposed dwelling would, unlike the adjoining dwelling, break the skyline and so be very prominent on the landscape when viewed from the road. The area is not otherwise particularly scenic (although areas to the north are indicated as 'High Amenity' (Table 7.17), and it is not within a core tourism area or an identified tourist/green route within the County (Table 7.14 of the Plan). The ridge may incorporate part of an esker which runs parallel to the road (Table 7.8).

The proposed dwelling is modest in scale and simple in form, and as such would, I consider, be appropriate in this landscape, subject to appropriate landscaping to soften the impact on the skyline.

8.6. Other issues

The site is not subject to flooding and there are no records of protected structures or recorded ancient monuments in the vicinity. The proposed dwelling would be subject to a S.48 development contribution under the adopted Scheme.

8.7. **Appropriate Assessment**

The site is not within or immediately adjacent to any EU designated habitats. There is an NHA about 3-km to the east. The ridge appears to be a local watershed, although it seems likely that most drainage is to the south then west to the Shannon via the Silver River. Watercourses on the western side of the ridge drain to the former great raised bogs of the midlands before draining ultimately to the Shannon. There are two SAC's around 5-6 km from the site. The **Charleville Wood SAC** (site code 000571) is a wood with conservation objectives relating to the protection of old sessile oak woods and the Desmoulins Whorl Snail. The **Clonaslee Eskers and Derry Bog SAC** (site code 000859) is designated with a conservation objective relating to alkaline fens and the Geyer's Whorl Snail. The Charleville Wood SAC is not within the direct catchment of the site and the Clonaslee Eskers SAC is upriver so there are no pathways for pollution. Much further downriver there are a number of SAC's and SPA's on the Shannon and its associated wetlands, but due to the distance and the small scale of the proposed development, I would not consider that there would be any adverse impact on the conservation objectives.

I would therefore consider that It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000571, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 **Recommendation**

I recommend that the Board uphold the decision by the planning authority to refuse permission for the reasons and considerations set out below.

10.0 Reasons and Considerations

It is considered that the proposed development would endanger public safety by reason of traffic hazard because the site is located alongside the heavily-trafficked National Secondary Road N52 at a point where the speed limit of 100 km/h applies and the additional traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road. The proposed development would also materially contravene the objectives of the planning authority (which are considered reasonable and in line with the policy objectives set out in the TII Guidance Document ***Spatial Planning and National Roads Guidelines for Planning Authorities, January 2012***) as set out in policy STAP-18 of the Offaly County Development Plan 2014-2020 to preserve the level of service and carrying capacity of the National Road Network and to protect the public investment in the road.

Philip Davis
Planning Inspector

18th December 2017