



**Development**

Construction of a 2 storey dwelling house, wastewater treatment unit, new site entrance and associated site works.

**Location**

Roundwood, Mountrath, Co. Laois.

**Planning Authority**

Laois County Council.

**Planning Authority Reg. Ref.**

17/262.

**Applicant(s)**

Andrew Kelly and Yvonne Heffernan.

**Type of Application**

Permission.

**Planning Authority Decision**

Refusal.

**Type of Appeal**

First Party v. Decision.

**Appellant(s)**

Andrew Kelly and Yvonne Heffernan

**Observer(s)**

None.

**Date of Site Inspection**

18<sup>th</sup> April 2018

**Inspector**

Susan McHugh

## **1.0 Site Location and Description**

- 1.1. The site is located in the townland of Roundwood in a rural area in the north west of County Laois. It is located approx. 4.5km northwest of the town of Mountrath, and approx. 15km west of Portlaoise. Access is via an existing laneway to the south of the R440 Regional Road which connects Mountrath to Kinnitty Co. Offaly.
- 1.2. The laneway which serves as access to two houses and agricultural lands is located to the east of the Roundwood House, a protected structure. The junction of the laneway with the R440 Regional Road comprises a separate access and egress arrangement. The speed limit along this section of the R440 is 80km/hr.
- 1.3. The laneway defines the site's eastern boundary and is delineated by concrete post and wire fencing. The north and western boundaries are defined by mature trees located within the grounds of Roundwood House. The southern boundary is defined by concrete post and wire fencing and open agricultural fields. There is an existing agricultural entrance gate onto the laneway.
- 1.4. The site, which is roughly rectangular in configuration, has a stated area of 0.5234ha. It forms part of a larger landholding of the applicant located to the south of Roundwood House.

## **2.0 Proposed Development**

- 2.1. Permission is sought to construct a new dwelling house, waste water treatment unit and associated percolation area, and new site entrance.
- 2.2. The proposed dwelling house is L shaped and has a stated area of 204sqm. It comprises a single storey block parallel to the laneway with a two storey block perpendicular to the laneway.
- 2.3. The single storey element comprises the open plan living accommodation of the dwelling and includes a mono-pitch roof.
- 2.4. The two storey element comprises the sleeping accommodation and bathrooms and includes a barrel roof. The two blocks are linked via the entrance foyer. Finishes include render and timber cladding with a metal roof.

- 2.5. The proposed source of water supply is from a new private bored well located to the front of the proposed house.
- 2.6. A new waste water treatment system is proposed. A site suitability assessment was submitted and based on the results of the assessment the site was considered suitable for a packaged waste water treatment system and polishing filter and percolation area. This is to be located to the rear of the proposed house.
- 2.7. A new vehicular access is proposed onto the existing laneway which connects to the R440. The cover letter submitted with the application outlines that the existing laneway serves two existing houses, one of which is occupied by the applicant and his parents, and the other by his uncle, and provides access to agricultural land by two other landowners.
- 2.8. The application was accompanied by documentary evidence of rural housing need, including letters of support.
- 2.9. In response to the request for further information the applicant outlined that the existing laneway and associated access onto the R440 was created in the 1960's when the Land Commission divided up property associated with Roundwood House which was then transferred to farmers. It is stated that the access therefore predates the Local Authority's current road and access standards.
- 2.10. The applicant also notes that he has lived all his life (33 years) in the family home on the laneway and uses the access point onto the R440 at least twice daily to access his place of residence and his place of work.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The decision of the planning authority was to **refuse** permission for two reasons which refer to:

1. Non-compliance with policy 'Trans 19' which seeks to 'restrict development requiring access onto Regional Roads where speed limits in excess of 50kph apply' in the Laois County Development Plan 2017-2023.
2. Would give rise to a traffic hazard resulting from inadequate sightlines.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports** (dated 12<sup>th</sup> July 2017 and 5<sup>th</sup> December 2017)

The **1<sup>st</sup> planning report** includes:

- Site is located in a Structurally Weak Rural Area.
- Located away from the public road, the design and scale of the proposed dwelling could be assimilated into the subject site.
- Notes separation distances of the proposed dwelling from Roundwood House, a protected structure, the relative simplicity of the design of the facades and the deciduous mature vegetation to the north and west located within the curtilage of the protected structure. The proposed development is likely to be imperceptible from the driveway of the protected structure. Recommends that a landscaping plan be submitted by way of further information.
- No details submitted in relation to improving sightlines at the existing junction of the laneway and the R440 where the existing junction represents a traffic hazard. Recommends further information to address improved sightlines at the junction.
- Proposals for water supply, effluent disposal by way of a new septic tank and surface water disposal are acceptable subject to condition.
- Site is not located within a designated flood risk area.

The **2<sup>nd</sup> planning report** states that the response to further information received in relation to improving sightlines and compliance with Trans 19 did not address the issues raised. Landscaping details submitted and the response to the third party submission were acceptable. The recommendation was to refuse permission.

#### **3.2.2. Other Technical Reports**

- **Area Engineer Roads:** Report dated 28/06/2017 recommends **further information**, noting the intensification of use of the existing entrance onto the R440 and inadequate sightlines currently available. Requests revised proposals indicating sightlines of 120m to be submitted, works required will impact on adjacent property owners and a letter of consent for proposed works to be submitted. Report dated

04/12/2017 recommends **refusal** on the basis that the further information provided does not address the inadequate sightlines proposed.

- **Executive Technician:** Report dated 14/06/2017 recommends no objection subject to EPA Code of Practice and standard conditions.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

A submission was lodged from Frank Keenan, Roundwood House. The issues raised are summarised as follows;

- Negative impact on the setting of Roundwood House a protected structure and surrounding parkland.
- The proposed dwelling will be visible from the driveway to Roundwood House during the winter months.
- Existing perimeter walk at Roundwood House will pass directly by the proposed dwelling.
- Noise from events at Roundwood House may impact on residential amenity of proposed dwelling.
- No objection to building on other lands around Roundwood House.

## 4.0 **Planning History**

None.

## 5.0 **Policy Context**

### 5.1. **Laois County Development Plan 2017-2023**

- 5.1.1. **Section 2.6** refers to rural housing strategy and the County is divided into three broad categories:

1. Areas under Strong Urban Influence,
2. Stronger Rural Areas and
3. Structurally Weak Areas.

The site is located in an area defined as a 'structurally weak area', (**Figure 7** Rural Area Designations).

- 5.1.2. **Section 2.6.1** refers to rural housing policy and rural area types.
- 5.1.3. The criteria for developing a dwelling in a rural area include;
  - The applicant must come within the definition of a 'Local Rural Person'.
  - The proposed site must be situated within their 'Local Rural Area'.
  - The applicant must have a 'Local Rural Housing Need'.
- 5.1.4. **Table 6** lists the Rural Area Designations and describes 'Structurally Weak Rural Areas' as '*rural areas which generally exhibit characteristics such as persistent population decline as well weaker economic structure based on indices of income employment and economic growth. These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing*'.
- 5.1.5. It is policy to '*help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria*'.
- 5.1.6. **Chapter 6** refers to Infrastructure
- 5.1.7. **Section 6.1.2.2** refers to Regional Roads and lists a number of Strategic Regional Roads in the County.
- 5.1.8. **Policy TRANS 19** states that it is the policy of the Council to: '*Restrict development requiring access onto Regional Roads where speed limits in excess of 50kph apply, this restriction will not necessarily apply in the following cases:*
- *In the case of applications for single-dwelling units for a farmer or a farmer's son or daughter, permission may be considered, where evidence submitted clearly demonstrates that an alternative site accessed from a local road is not available and*

*where the Council's road standards can be met. Also, the farm in question is of a minimum size of 37 hectares (91 acres);*

- In the case of development relating to established farm activity where the development will not adversely affect road safety.'*

**Section 6.1.2.3** refers to *County Roads and Urban Roads/Street* with reference to *Laois County Council Roads and Parking Standards 2007*.

5.1.9. **Chapter 7** refers to Heritage

5.1.10. **Appendix 1** refers to *Record of Protected Structures*

RPS Ref. No.	Designation	NIAH	NIAH Rating
No. 415_A	Roundwood House	12801102	National Importance
No. 415_B	Roundwood House Stable Complex	12801102	Regional Importance
No. 415_C	Roundwood House Barn	12801104	Regional Importance

5.1.11. **Appendix 6** refers to *Landscape Character Areas* and Map no. 6 identified the site within the '*Mountain Areas*'.

5.1.12. **Appendix 7** refers to *Rural Design Guidance*

5.1.13. *Laois County Council Roads and Parking Standards*

Table 2.1 sets out visibility standards.

County Road	Speed Limit (Km/h)	Design Speed (Km/h)	Dimension 'x' metres
Regional	80	85	160

*'In certain cases where there are extenuating circumstances and where there is no alternative road frontage available, relaxations in relation to sight distances will be considered subject to the approval of the Senior Executive Engineer. These*

*relaxations will not compromise the safety of any road user. These relaxations will not apply in the case of Strategic Regional Roads or National Secondary Roads.'*

## 5.2. National Policy

### 5.2.1. Regional Planning Guidelines for the Midland Region 2010-2022

Figure 4.4 Spatial Settlement Strategy identifies the site as being located within the Southern Development Area for the Region within the rural hinterland.

### 5.2.2. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

National Policy Objective 19 refers to the necessity in rural areas not under urban influence to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## 5.3. Natural Heritage Designations

The following European sites are located within approx. 15km of the site:

Site Name	Designation	Site Code	Distance
Slieve Bloom	SPA	004160	700m N
Slieve Bloom	SAC	000412	3.7km NE
River Nore	SPA	004233	2.5km W
River Barrow and River Nore	SAC	002162	2km E
Coolrain Bog	SAC	002332	7km SW
Knockacoller Bog	SAC	002333	5.6km S

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The First Party appeal submitted by Connie Leahy, Architectural Design Consultants, on behalf of the applicant.

The appeal was accompanied by a Transport Statement prepared by Transport Insights, Transport Planning Consultants and a Traffic Survey prepared by Tracsis Plc. The issues raised in the appeal may be summarised as follows:

#### **Site Context**

- The existing roadway is only used by four farmers, (for accessing the agricultural fields off the lane), Mr. Kelly's family, where he and his parents live, and his uncle's family also reside in a house on this roadway.

#### **Reason for Refusal No. 1 – Compliance with Development Plan Policy**

- The wording of TRANS 19 of the Laois County Development Plan refers to incidents where restrictions will not necessarily apply. Contends that the unique circumstances of this case (Mr Kelly already living on the laneway all of his life and using the existing entrance/egress point onto the R440 several times a day for his place of residence and work) would represent extenuating circumstances where the local authority policy should be relaxed. The applicant's socio economic ties to the local area are equivalent to that of local farmers.
- The Traffic Speed Survey illustrates that the R440 has a low design speed comparable to a local secondary road and therefore justifies a relaxation of the visibility splay standards required by the Local Authority for the existing junction to the R440.

#### **Reason for Refusal No. 2 - Traffic Hazard**

- There have been no collisions on R440 arising as a result of access/egress movements on the laneway, with reference to the Road Safety Authority's collision

database for the 10-year period from 2005-2014 or in living memory. The layout of the junction appears to deliver satisfactory road safety performance characteristics.

- Disagree that the development would represent an intensification of traffic movements using the access/egress point to such an extent that it would create a traffic hazard having regard to the applicants existing frequent use of the access point.

## 6.2. Planning Authority Response

None.

## 6.3. Observations

None received.

# 7.0 Assessment

- 7.1.1. The appeal site is located in a ‘structurally weak area’, where the applicant has demonstrated strong family and local ties with the rural area and therefore, meets the criteria of the rural housing policy. The scale of the proposed dwelling is relatively modest and contemporary in design. It will not be visible from the R440 and can be easily absorbed into the rural landscape, and is in accordance with the Rural Design Guidance of the County Development Plan. The location of the proposed waste water treatment system, polishing filter and percolation area and site conditions are in accordance with the EPA Code of Practice Waste Water Treatment and Disposal Systems serving Single Houses (EPA 2009), and would not be prejudicial to public health.
- 7.2. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Access and Road Safety
- Cultural Heritage
- Appropriate Assessment

### **7.3. Access and Road Safety**

- 7.3.1. Reason for refusal no. 1 refers specifically to non-compliance with development plan policy in relation to access onto Regional Roads.
- 7.3.2. The laneway providing access to the site is approached via an existing entry / exit point from the R440 Regional Road.
- 7.3.3. The speed limit on the R440 is 80km/hr and as such the development is subject to the requirements of Policy TRANS 19. This policy restricts access onto Regional Roads where speed limits are in excess of 50km/hr. Under this policy consideration is given to applications for single dwelling units, for a farmer or a farmer's son or daughter, where there is no alternative access from a local road, where a farm is greater than 37 hectares and where the development would not adversely affect road safety.
- 7.3.4. The applicant notes in their appeal the wording of this policy refers to restricting development rather than prohibiting development.
- 7.3.5. The applicant states that he has lived on the roadway all of his life, and currently lives with his parents in the family home, next to his uncle's home at the northern end of the laneway. He also refers to the fact that he is employed as a foreman with Dawson Modular Installations and the head office is located directly adjacent to his family home. He reports to his work base at his uncle's home also accessed via this roadway, twice a day. The applicants partner works in Portlaoise. The applicant has outlined that the laneway serves both these houses and provides access to agricultural land by two other landowners, and has also indicated the existing wayleave along the laneway and access point onto the R440.
- 7.3.6. I note from the site layout plan the applicants relatively large landholding outlined in blue, which is calculated from the property registration authority as approx. 16ha. I

also note from the application form, that the applicants are not currently the legal owners of the appeal site, but have a contract to purchase subject to a grant of planning permission. Notwithstanding the extent of the landholding there would appear to be no alternative access arrangement to the appeal site other than from that proposed.

- 7.3.7. The planning authority had concerns in relation to the intensification of use of the access onto the R440. The applicant argued that as no new access onto the R440 is proposed and that they already use the access, that an intensification of use as a result of the proposed development would not arise.
- 7.3.8. Having considered the applicant's case, I do accept that there is no alternative access arrangement, that it is proposed to use an existing entrance, and that the access serves a limited number of users. However, I am satisfied that the proposed development would result in an intensification of the use of the access onto a regional road by the applicant and his partner. The extent of the applicant's landholding has been taken into account, but would note that the applicant is not engaged in farming and the development does not relate to an established farm activity. I do not accept that the applicant's socio economic ties to the local area are equivalent to that of local farmers. Having regard to the foregoing, I am of the opinion that the proposed development does not represent extenuating circumstances where the local authority policy should be relaxed.
- 7.3.9. Therefore, I am not satisfied that the proposed development complies with the requirements of Policy TRANS19.
- 7.3.10. Refusal reason no. 2 refers to the proposed development giving rise to a traffic hazard.
- 7.3.11. Sight visibility from the existing access onto the R440 is seriously substandard and no proposals for the provision of adequate sightlines in accordance with current standards were submitted. The layout of the junction with the R440 provides for two access /egress lanes separated by a low walled island. Upon exit from the local access road, the junction provides in excess of 120m of visibility along the R440 to the east. Visibility to the west is constrained by a boundary wall and hedge within third party ownership.

7.3.12. I note the relevant guidance documents are the Laois County Council Roads and Parking Standards, and the Design Manual for Roads and Bridges (DMRB). It is noted that the (DMRB) is primarily a guidance document dealing with the geometric design of new major/minor priority junctions rather than existing access arrangements. The guidance notes that the desirable distance back (referred to as the 'x' distance) from a direct access from a simple junction is 2.4 to 3 metres.

7.3.13. The guidance sets out the minimum sightline distances ('y' distance) that will be required to be able to see clearly points to the left and right.

7.3.14. The required sight distance associated with the various design speeds as set out in Table 7/1 of the NRA Design Manual for Roads and Bridges (DMRB) are as follows:

Design Speed of Major Road (kph)	'y' Sight Distance / Sight Line (m)
50	70
60	90
70	120
85	160

7.3.15. If the required sightlines cannot be achieved there are some measures that can be taken. For example, if the applicant has control over boundary ditches or heavy vegetation which restrict visibility, these can be removed. If this is not possible or does not significantly increase the sightlines, then the possibility of reducing actual sightlines required must be explored. The required sightline or sight distances can be reduced by proving that 85% of the vehicles passing the proposed site, travel slower than the legal speed limit. In order to demonstrate this and implement a reduced sightline, then a speed survey needs to be carried out.

7.3.16. In this regard the applicant was requested at further information stage to demonstrate that sightlines of 120m in either direction could be achieved. It was also noted by the Area Engineer that works required to improve sightlines would impact

on adjacent property owners and as such a letter of consent for the proposed works should be submitted.

- 7.3.17. The applicant argued that no new access onto the R440 is proposed and that there was no necessity to demonstrate compliance with the planning authority's sightline requirements, as the creation of the access-egress point predated the planning authority's current road and access standards. It was contended that the proposed development which will avail of an existing entrance onto the R440 by a resident who already uses the access point on a daily basis, should be looked on more favourably by the planning authority.
- 7.3.18. The applicant has submitted on appeal that there should be a relaxation of the Councils Roads and Parking Standards as set out in Section 2 of the Standards in relation to reduced sightlines. They note that there is no alternative road frontage available and that the proposal will not compromise the safety of any road user.
- 7.3.19. Specifically, they note that the R440 in the vicinity of the local access road is relatively narrow, with a carriageway width of 5-5.5m. The applicant contends that the road carriageway width and alignment characteristics influence road user behaviour by limiting traffic speeds, and that this is supported by the findings of a speed survey which was submitted on appeal.
- 7.3.20. The traffic survey was carried out over a 7 day period in November 2016 and measured traffic volumes and speeds along the R440 at a point approx. 200m to the east of the appeal site. The results of the survey show that traffic volumes were very low, with hourly two-way traffic flows only twice exceeding 100 vehicles per hour across the 7- day survey period. The Transport Statement states that this is consistent with the very rural nature of the survey location and non-strategic status of the R440. The traffic survey also found that the vast majority of traffic comprised light vehicles, with heavy goods vehicles comprising 4.0% of overall recorded traffic over the 7-day period.
- 7.3.21. The speed survey results indicate very low traffic speeds on the R440 with 7 day average traffic speeds of 55.1km/h, and 7 day 85<sup>th</sup> percentile traffic speeds of 69.5km/h. I note the Design Manual for Roads and Bridges (DMRB) recommends that 'for new ...accesses on existing roads, the normal design methods are based on the 85<sup>th</sup> percentile wet weather journey speed of vehicles', and as such in

accordance with the abovementioned guidance, the R440's effective speed limit has been determined to be 59.5km.

- 7.3.22. I would concur with the assertion by the applicant that for a regional road the R440 has a low design speed. The applicant contends that by reference to Table 2.1 of the Laois County Council Roads and Parking Standards, the design speed is comparable to local secondary road classifications found elsewhere in the County. They refer to Transport Infrastructure Irelands Rural Road Link Design Standards (DN-GEO-03031, June 2017) which indicate a requirement for 90m of sightlines for a road with a 60km/h design speed. This the applicant claims is substantially less than the 160m referred to in the Roads Design Office report.
- 7.3.23. I consider that the evidence provided in the Transport Statement and Traffic Surveys is robust and I accept the findings. I am satisfied that the applicant has demonstrated in respect to the traffic surveys carried out that traffic speeds are lower than the 80km/hr speed limit. I can also confirm that traffic volumes on the day of my inspection around midday were very light and vehicles were not travelling at excessive speed. I would also note that the R440 Regional Road, is not listed as a Strategic Regional Road under Section 6.1.2.2 of the County Development Plan.
- 7.3.24. I would agree with the applicant that the continuous white centre line along the R440 has to be taken into account as it constrains overtaking of traffic travelling from west to east along that road. I would also agree that given the domestic nature of the existing land use and the use by two other landowners to access agricultural land, it is not considered that it would constitute a heavily trafficked access.
- 7.3.25. However, it is still clear that the applicant despite every opportunity to do so, has failed to demonstrate that existing sightlines in a westerly direction from the entrance meet the relevant standards, or submitted proposals to improve sightlines. In addition, the Council's Roads Engineer is not satisfied that adequate visibility and sightlines can be achieved at the junction with the R440 in accordance with Council standards. I do not consider that there is sufficient basis to relax local authority policy as it relates to Regional Roads or the DMRB standards in the case of a road safety issue.

- 7.3.26. Having regard to the above, I am not satisfied that the proposed access arrangements would not give rise to a traffic hazard or endanger the safety of other road users.
- 7.3.27. I am satisfied therefore, in this instance, that reasons for refusal no.1 and 2 should be upheld.

#### **7.4. Cultural Heritage**

- 7.4.1. The proposed house is located to the south of Roundwood House, stables and barn which are protected structures. Roundwood House RPS Ref. No. 415\_A is rated as of national importance and is currently used as a guest house and for occasional events. Issues were raised by the owners of Roundwood House in a third party submission to the planning authority in relation to the visual impact of the proposed development on these protected structures. The applicant in response to these concerns, and as requested by the planning authority, submitted a landscaping scheme to augment existing planting along the northern and western boundaries which were considered acceptable.
- 7.4.2. In this regard, I did note on my site inspection that Roundwood House is partially visible from the access laneway which runs to the east of the estate, with very limited views to the protected structure from the northern and western boundaries of the appeal site. I note that there are no designated protected views to or from Roundwood House. There is existing mature planting along the northern and western boundaries of the appeal site. I am satisfied that, subject to additional planting as detailed, the proposed house will be adequately screened.
- 7.4.3. I also note the siting of the proposed house, which is set back from the northern site boundary by approx. 32m, and approx. 130m from Roundwood House.
- 7.4.4. Having regard to the above, I am satisfied that the proposed dwelling house will not have an adverse impact on the protected structures and is acceptable.

#### **7.5. Appropriate Assessment**

- 7.5.1. The Slieve Bloom SPA (Site Code 004160) is located approx. 700m to the north. Having regard to the nature and scale of development proposed and to the nature of

the receiving environment, the intervening distances and to the lack of a hydrological connections, it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. It is considered that the proposed development would endanger public safety by reason of a traffic hazard because of the additional turning movements the development would generate onto the R440 Regional Road at a point where sightlines are restricted in a westerly direction. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

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Susan McHugh  
Planning Inspectorate

2<sup>nd</sup> May 2018