



An
Bord
Pleanála

Inspector's Report ABP-300913-18

Development	House, septic tank and percolation area, garage, new shared entrance and removal of existing entrance and all associated site works.
Location	Lea Road, Portarlinton, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	17/515
Applicant(s)	Tony & Lisa Cox
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tony & Lisa Cox
Date of Site Inspection	11 th May 2018
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.59 hectares, is located on the southern side of the R420, 4km east of Portarlinton and 5.5km to the west of Monasterevin. The appeal site is an existing field located to the west of a single-storey dwelling. The site is a flat site with boundaries defined by existing hedgerow. To the west and south are agricultural lands.

2.0 Proposed Development

- 2.1. Permission is sought to construct a single-storey dwelling, septic tank and percolation area, domestic garage, new shared entrance with family home and removal of existing entrance to family home and all associated site works. The dwelling has a floor area of 186sqm and a ridge height of 6.6m. The dwelling features a pitched roof with external finishes of nap plaster with some stone details and a blue/black slate roof. The garage has a floor area of 55.8sqm and a ridge height of 4.8m and has similar external finishes to the dwelling. It is proposed to close the vehicular entrance serving the existing dwelling to the east and install a new vehicular entrance to be shared between the new dwelling and the existing dwelling.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons, which are as follows...

1. The proposed development would endanger public safety by reason of traffic hazard as it has not been adequately demonstrated that the required sightlines for a Strategic Regional Route, as measured to the near side of the public road in both directions at the entrance, can be achieved. It is considered that the sightlines achievable are inadequate and not in line with Laois County Council Roads and Parking Standards, In addition, based on the high traffic volumes, high traffic speeds and the number of road traffic accidents on this Strategic National Route, the Planning Authority is not

satisfied that the proposed development can be accommodated without the creation of a traffic hazard. It is also considered that 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 a major road by traffic.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted, it is considered that the applicants do not comply with policy Trans 17 of the Laois County Development Plan 2017-2023 which, subject to a number of safety considerations, seeks to limit access onto the Strategic Regional Route network to 'full time farmers of farmers and/or their children'.

The proposed development would materially contravene this stated policy and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (10/11/17): Further information required including demonstration of adequate sightlines, documentary evidence of compliance with policy Trans 17 of the County Development Plan and details of compliance with rural housing policy.

Planning report (15/01/18): It was noted that the applicant failed to demonstrate that sufficient sightlines are available or compliance with the terms of policy Trans 17. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

Road design Office (31/10/17): Further information required including provision of revised drawings showing the provision of a 180m sightlines and photographic evidence confirming such area achievable.

Road design Office (10/01/18): Refusal recommended due to the failure of the applicant to demonstrate that sightlines of 180m can be achieved at the proposed vehicular entrance.

4.0 Planning History

01/155: Outline permission for a dwelling refused on the grounds that it contravene a condition attached to permission ref no. 97/282.

97/282: Outline permission granted for a dwelling.

PL11 .248408: Permission granted for change of use of a dwelling house to residential care unit, extension, demolition of shed, installation of wastewater treatment system and associated site works. This site is an existing dwelling to the east of the single-storey dwelling immediately adjoining the site.

LS0043:

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Laois County Development plan 2017-2023.

The site is on a stretch of road, the R420 identified as a Strategic Regional Route.

Trans 17: Consider permitting access for single dwellings for full time farmers or farmers and/or their children, subject to the following provisions:

- (i) An alternative site with access onto a minor road is not available;
- (ii) The proposed development can be accommodated without the creation of a traffic hazard;
- (iii) Where possible an existing entrance is used;
- (iv) The Council's Roads standards are fully met.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

A first part appeal has been submitted by AOCA Engineering Consultants on behalf of Tony & Lisa Cox. The grounds of appeal are as follows...

- Sightlines of 180m as requested by the Planning Authority have been demonstrated with it noted that the alignment of the road and the length of frontage under the applicants' control allows for such. It is noted the site is in the 80kph speed limit zone and is a short distance from a 60kph zone (99m east from the new entrance) and that there have been no accidents along this stretch. The appellants are willing to relocate the new entrance closer to the speed limit zone or extend the sightlines if necessary.
- It is noted that the policy along the regional routes appears to be more restrictive than that along national routes under the Development Plan. It is noted that regard should be had to the nature of the development and the insignificant amount of traffic it would generate with it noted that the applicants/appellants meet all other criteria under policy Trans 17.
- It is noted that the Lisa Cox's family have resided at the location for c.20 years and the applicant have desire to locate beside family and that that traffic movements will be minimal increases over existing and proposes to use a shared entrance.

6.2. Planning Authority Response

Response by Laois County Council.

- The Planning Authority refute the claim that policy along the regional route is more restrictive than along national routes and reiterate the fact that the

applicants do not comply with policy Trans 17 of the County development Plan.

- It is noted that a survey carried out by the Council's Roads Department found that sightlines of 180m x 3m is not achievable with it noting that the applicants submission in response to further information does not use the correct set back distance (3m) and that to achieve the required sightlines would require alteration of third party lands. The sightline requirement has not been met.
- The Planning Authority note the results of a speed and volume survey that demonstrate that high speed and volume of traffic on the regional route.
- The Planning Authority highlight the high accident history in the vicinity of the site including a letter from An Garda Síochána that backs up the claim that there is a high level of accidents at this location.

7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/Development Plan policy

Design, scale, visual and adjoining amenity

Traffic

Wastewater Treatment

Appropriate Assessment

- 7.2. Principle of the proposed development/development plan policy:

- 7.2.1 Permission is sought for a new dwelling with the rural area of County Laois. The site is located in an 'Area under Strong Urban Influence' as identified under the National Spatial Strategy and the Sustainable Rural Guidelines. Under Development plan policy in such areas "it is an objective of the Council only to permit single houses in

the area under strong urban influence to facilitate those with a local rural housing need² in the area, in particular those that have lived in an rural area”. Housing need is determined by the following criteria....

- (a) the application is being made by a long term landowner or his/her son or daughter seeking to build their **first** home on the family lands; or
- (b) the applicant is engaged in working the family farm and the house is for that persons own use; or
- (c) the applicant is working in rural activities³ and for this reason needs to be accommodated near their place of work; or
- (d) the application is being made by a local rural person(s) who have spent a substantial period of their life (minimum 10 years) living in the local rural area, and, who for family and/or work reasons need to live in the rural area.

7.2.2 The background to the proposal is that the site is taken from the landholding associated with the parents of one of the applicants (Lisa Cox). The existing dwelling to the east, which is to share the new access with the proposed dwelling is the family home of Lisa Cox. The applicants currently live in Portlaoise and wish to relocate close to family. Based on this it would appear that the applicants would comply with rural housing policy as set out above meaning the principle of dwelling at this location is acceptable.

7.2.3 The site is located off the R420, which is identified as a Strategic Regional Road under the County Development Plan. It is Council policy to prohibit unnecessary access points off such Routes outside of the 50kph speed limit zone (TRANS 16). Policy TRANS 17 states “consider permitting access for single dwellings for full time farmers or farmers and/or their children, subject to the following provisions:

- (i) An alternative site with access onto a minor road is not available;
- (ii) The proposed development can be accommodated without the creation of a traffic hazard;
- (iii) Where possible an existing entrance is used;
- (iv) The Council’s Roads standards are fully met”.

In this case the applicant's do not comply (not full time farmers or son or daughter of such) with this policy with permission refused on the basis that it would materially contravene Development Plan policy. The proposal would be contrary to development plan policy as the applicants do not meet the criteria that would permit the provision of a new access or sharing of an existing access at this location.

7.2.4 I would note the provisions of Section 37 (2) (b) of the Planning and Development Act 2000 (as amended). This requires that in the event a Planning Authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission where (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives stated insofar as the proposed development is concerned, or (iii) permission for the proposed development is to be granted having regard to Regional or Ministerial guidelines, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permission granted, in the area since the making of the development plan.

7.3 Design, scale, visual and adjoining amenity:

7.3.1 The proposal is for a single-storey dwelling and a detached garage. The appeal site no located in an area designated as being or high scenic amenities. The site is not elevated. The dwelling proposed is modest in scale and similar in scale to the existing dwelling on the site immediately to the east. I would be satisfied that the dwelling proposed would have a negligible impact on the visual amenities of the area.

7.3.2 The nature and scale of the proposal is such that it is unlikely have any adverse impact on the amenities of the adjoining properties, which include an existing dwelling to the east and agricultural lands to south and west.

7.4 Traffic:

7.4.1 The appeal site is located on the southern side of the R420, a regional route between Portarlinton and Monasterevin. The proposal entails the provision of a new vehicular access to serve the new dwelling and also the existing dwelling to the east with the existing access to be closed. The level of sightlines required under Development policy on such routes is 180m (x3m). The applicants/appellants have noted that such sightlines are available at the proposed new entrance point whereas the Council have disputed such in their reason for refusal as well as in the response to the appeal site. Having inspected the site, I would note that the R420 is heavily trafficked regional route and that the sightlines required are not achievable at this location. I would acknowledge that the sightlines at the proposed entrance are likely to be an improvement over those available at the existing access serving the existing dwelling that is to be closed. Notwithstanding such, the proposal provides for an access where the required visibility cannot be achieved and the proposal entails an intensification of traffic through the new access over and above the existing one to be closed. The proposal would constitute a traffic hazard due to additional turning movements and obstruction to other road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

7.5 Wastewater Treatment:

7.5.1 The proposal entails installation of a septic tank and percolation area. Site characterisation was carried out including trial hole and percolation tests. The trial hole test notes that the water table level was not encountered in the 2m deep trial hole. The percolation tests result for T tests carried out by the standard method and for deep subsoils and/or water table as well as P tests by the standard method for shall soil/subsoils and or/water table, indicate percolation values that are within the standards what would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries). Based on the information on file and

subject to appropriate conditions requiring compliance with the EPA Code Practice, I would consider that the proposal would be acceptable in the context of public health.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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 refusal based on the following reasons.

9.0 **Reasons and Considerations**

1. The proposal provides for a new vehicular access off a heavily trafficked Regional Route within the 80kph speed limit zone, where inadequate sightlines are provided at the new entrance point as well the fact the proposal entails an intensification of traffic movements at this location. The proposal would constitute a traffic hazard due to additional turning movements and obstruction to other road users and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposal entails the provision of a new vehicular access off the R420, which is identified as a Strategic Regional Route under the Laois County Development plan 2017-2023. Policy Trans 17 considers permitting access for single dwellings for full time farmers or farmers and/or their children, subject to a number of provisions included a shared access with an existing dwelling. The applicants do not meet criteria for such an access off the Strategic Regional Route with the proposed development contrary to the stated policy of the County Development Plan.

Colin McBride
Planning Inspector

17th May 2018