



An  
Bord  
Pleanála

## Inspector's Report ABP-301995-18

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<b>Development</b>	Dwelling House, Domestic Garage and all ancillary Site Works
<b>Location</b>	Clonony Beg, Shannon Harbour, County Offaly
<b>Planning Authority</b>	Offaly County Council
<b>Planning Authority Reg. Ref.</b>	18/170
<b>Applicant(s)</b>	David Lyons
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	David Lyons
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> August 2018
<b>Inspector</b>	Ciara Kellett

## 1.0 Site Location and Description

- 1.1. The appeal site is located in Shannon Harbour, Co. Offaly. Shannon Harbour is located to the west of Co. Offaly close to the border with Co. Galway. The Shannon River is c.1.3km to the west of Shannon Harbour and the Grand Canal runs to the north of the village. A number of boats are moored along the canal. The small village comprises pubs and a shop.
- 1.2. The site itself is located along the main road that runs north-south from the R356 towards the Grand Canal. There are a number of dwellings that are located to the east of the road and this site is effectively an infill site. The applicant's parent owns the house already on the site. The site is stated as being 0.0342 hectares and is roughly rectangular in shape.
- 1.3. Appendix A includes maps and photos.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a dwelling on the site to the south of the existing dwelling which will face directly onto the street. The dwelling is a two-storey detached dwelling of 200sq.m in area and 8.653m in height. The design is identical to the dwelling on the site and will be in line with the existing dwelling. A garage of 24sq.m is also proposed to the rear of the dwelling.
- 2.2. It is proposed to share access with the existing dwelling and arrange a right of way. All services will be connected to the mains supplies.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for one reason.

1. *Having regard to the section 28 Ministerial Guidelines, the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009, the site is located wholly within the 1% AEP floodplain as indicated in the Shannon CFRAM study and is at risk of flooding and accordingly the*

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

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

#### 3.2.1. **Planning Reports**

The Planner's Report is the basis for the Planning Authority's decision. In summary it includes:

- The site is zoned Village Centre/Mixed Use.
- Notes no issues with Road and Traffic Safety, Siting and Design, or Residential Amenity.
- Notes Environment and Water Services have recommended refusal as the site lies wholly within the 1% AEP floodplain as shown on the Shannon CFRAM study.
- Notes the applicant has failed to provide a Flood Risk Assessment but notwithstanding this, notes the EWS section recommend refusal which Planner concurs with.

The Planning Authority decision is in accordance with the Planner's recommendation.

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

- **Area Engineer:** No objections subject to conditions.
- **Environment and Water Services:** Recommend Refusal.

### 3.3. **Prescribed Bodies**

- **Irish Water:** No objection.
- **Arts Council:** File Referred
- **Heritage Council:** File Referred
- **DCHG:** File Referred
- **An Taisce:** File Referred

### 3.4. Third Party Observations

None

## 4.0 Planning History

- **Reg. Ref. 01/1217:** Permission for a dwelling house on the site was granted by the Council in November 2002.

## 5.0 Policy Context

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

- 5.1.1. Chapter 1 refers to Core Strategy and Settlement Strategy. Chapter 4 refers to Infrastructure and Environment Strategy.
- 5.1.2. Map 1.1 identifies Shannon Harbour as a village. Table 5.1 identifies the Settlement Hierarchy and Planning Principles for development. It includes *Residential development in villages should at all times be of appropriate scale and density. Villages include statutory zoning for a range of uses. Development in Village areas must strike a balance in meeting the needs and demands of the village or its rural hinterland and be sensitive and responsive to the existing prevailing pattern, scale, density and design of the village.*
- 5.1.3. Chapter 4 refers to Flooding and Flood Risk. Shannon Harbour is identified as an Area for Further Assessment (AFA) and it is noted that a more detailed assessment will be undertaken through Catchment Flood Risk Assessment and Management (CFRAM). It states:

*The Council will assess planning applications for development located in Flood Zones A and B in accordance with the provisions of these Guidelines. The Council will ensure that only developments consistent with the overall policy and technical approaches of these Guidelines will be approved and permission may be refused where flood issues have not been, or cannot be, addressed successfully and where the presence of unacceptable residual flood risks to the development, its occupants or users and adjoining property remains.*

Specific policies include:

**EnvP-21** *It is Council policy to require development proposals locating in Flood Zones A and B to be accompanied by a detailed explanation of how the Development Management Justification Test has been met where proposals for development may be vulnerable to flooding i.e. Box. 5.1: The Planning System and Flood Risk Management Guidelines, 2009.*

**EnvP-22** *It is Council policy to require more detailed assessment frameworks (Site Specific Flood Risk Assessments) for planning applications where flooding is an issue, including the assessment of flooding from other sources at the site-specific level and offer mitigating options for the management of the risk, without increasing flood risk elsewhere.*

5.1.4. Volume 2 of the Plan provides more detailed information relating to Shannon Harbour. It states that given its location on the Shannon Callows, regular flooding will severely curtail the potential for development of this settlement. The subject site is zoned for Village Centre/Mixed Use on Map OCT 14/01.

5.1.5. A Strategic Flood Risk Assessment has been prepared. Map 4.1 identifies areas within Flood Zone A and B. Shannon Harbour lies in this area. Table 6.1 identifies Settlement Areas and Flood Risk. With respect to Shannon Harbour it has settlement land within Flood Zone A or B and it is stated that the land is at risk of flooding from other sources. A comment beside Shannon Harbour reads '*Precautionary approach to zoning of land in areas at risk of flooding*'.

## 5.2. **Natural Heritage Designations**

River Shannon Callows SAC (Site Code 000216) is c.100m south of the site.

Middle Shannon Callows SPA (Site Code 004096) is c. 100m south of the site.

Moyclare Bog SAC (Site Code 000581) is c. 6.1km north-east of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party has appealed the decision of the Planning Authority. In summary it includes:

- Planner's Report outlines that there are no issues with regard to Development Plan policies, road and traffic safety and residential amenity.
- Only issue is in relation to flooding.
- The Council's Strategic Flood Risk Assessment Map for Shannon Harbour shows the site within the flood extent area but not within Flood Zones A or B – map included with appeal.
- Therefore, site is located within Flood Zone C and the probability of flooding is considered low. In accordance with Table 3.3 of the SFRA, development is appropriate from a flood risk perspective.
- As site is not within Flood Zone A or B and there are no policy issues, this development should be permitted.
- Having regard to the ongoing investigative nature of flood mapping and the fact that the site is shown within the flood extents, refers to section 1.2.4 of the SFRA which outlines the core objectives of the Flood Risk Guidelines for Planning Authorities. A core objective is to avoid unnecessary restriction of national, regional or local economic and social growth.
- Consider refusal unnecessarily restricts social growth. A vacant site within the village core will be developed by a native of the village as a family home. Social benefits are obvious and fulfil objectives of the Village Plan.
- The proposal fronts onto the street, develops an infill site on the streetscape, is small scale residential and contributes to the village.
- Refer to Planning Authority Flood Risk Guidelines key principle to mitigate and manage the risk where avoidance and substitution are not possible. Applicant has no alternative.

- Flooding is a significant issue in Shannon Harbour although the village is largely immune. During the floods of 2009 applicant's father's house did not flood. House has been designed to be 75mm higher than adjacent dwelling.

## 6.2. **Planning Authority Response**

The Planning Authority responded. In summary it includes:

- Notes submission by appellant
- States that at the time of the application the subject site was not located within Flood Zones A & B of the PFRAM maps.
- The finalised CFRAM maps were published subsequently in May 2018 and have been adopted by the Council in July 2018.
- The CFRAM maps shows a larger flood plain and the site is located within the 1% AEP or 1 in 100 year floodplain.
- Request the Board to uphold their decision to refuse permission.

## 7.0 **Assessment**

The main issue in this appeal is that raised in the grounds of appeal and I am satisfied that no other substantive issues arise. I am satisfied that the site is suitably zoned, and the layout, scale and form of the dwelling is acceptable. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following heading:

- Flooding
- Appropriate Assessment
- Environmental Impact Assessment

### 7.1. **Flooding**

- 7.1.1. The application was refused for one reason relating to its location within the 1% AEP floodplain as indicated in the Shannon CFRAM study. The applicant is of the opinion

that the site is not located within Flood Zone A or B and is therefore acceptable. The applicant states that the site is shown within the flood extents.

- 7.1.2. I note that policy EnvP-22 requires a *Site Specific Flood Risk Assessments for planning applications where flooding is an issue, including the assessment of flooding from other sources at the site-specific level and offer mitigating options for the management of the risk, without increasing flood risk elsewhere.*
- 7.1.3. The application has not been accompanied with a Site Specific Flood Risk Assessment Report.
- 7.1.4. I have viewed the CFRAMS data. The specific location of the site is hard to discern, and it is difficult to conclusively determine if the site is within the 1% AED area or not. Notwithstanding this, it is on the border between the 'low probability' and the 'medium probability' i.e. the 1% AED. Having regard to its location, I am of the opinion that a Site Specific Flood Risk Assessment is required before a decision on this file can be made.
- 7.1.5. The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009, state that *Where flood risk may be an issue for any proposed development, a more detailed flood risk assessment should be carried out appropriate to the scale and nature of the development and the risks arising. The detailed Site Specific Flood Risk Assessment should quantify the risks and the effects of any necessary mitigation, together with the measures needed or proposed to manage residual risks.*
- 7.1.6. I accept that the applicant claims that his parent's dwelling did not flood in 2009 and consider it is reasonable to assume that his proposed dwelling is unlikely to flood in such an extreme situation. However, having regard to the CFRAM maps, the Guidelines for Planning Authorities and the policies within the Development Plan, I consider it would be contrary to the policies therein to recommend granting permission in the absence of site specific information.
- 7.1.7. To conclude, in the absence of a Site Specific Flood Risk Assessment, the flood risk cannot be determined nor can mitigation measures be identified and accordingly, I am recommending refusal of permission. Should the Board be of a different opinion, I am satisfied that the zoning, design, scale and form of the proposal is acceptable



and would not recommend refusal for any reason other than flooding concerns and lack of site specific flood risk assessment.

## **7.2. 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.

## **7.3. Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

I recommend that planning permission should be refused for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

The proposed development is in an area which is deemed to be at risk of flooding, by reference to the current Development Plan for the area and the documentation on file. Having regard to the provisions of the Development Plan in relation to development proposals in areas at risk of flooding, it is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, the proposed development would be contrary to the proper planning and sustainable development of the area.

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Ciara Kellett

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Senior Planning Inspector

24th September 2018