



An  
Bord  
Pleanála

## Inspector's Report ABP 302028-18

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<b>Development</b>	Construct house, use existing septic tank/percolation area.
<b>Location</b>	Grangeford, Bennekerry, County Carlow.
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority Reg. Ref.</b>	18/48
<b>Applicant(s)</b>	Martin Moran
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Martin Moran
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> October 2018
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 0.28ha and is located at the end of an access laneway which serves three houses and the applicant's current mobile home accommodation. The red-line site boundary does not include a complex of farm buildings adjoining the site but the appeal makes the point that the applicant is involved in the horse industry.
- 1.2. The site is accessed over a private laneway which has an access with the R725 Carlow/Tullow regional route northwest of the application site.

## 2.0 Proposed Development

- 2.1. The erection of a bungalow and use of an existing septic tank and percolation area at Grangeford, Bennekerry, County Carlow.

## 3.0 Planning Authority Decision

### 3.1. Decision – Refuse permission

- The proposed development would create an additional vehicular traffic access to a regional route and contravene the Spatial Planning Guidance for National Roads.
- The required sightlines are not clearly demonstrated at the entrance to the junction with the regional route and the proposed development would endanger public safety.
- The proposed development would comprise haphazard backland development with no direct road access would contravene the county development plan.
- The proposed development does not comply with the rural housing policy set out in the County Development Plan.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The planner's report recommended refusal as set out in the manager's order.

### 3.2.2. Other Technical Reports

3.2.3. The **Environment Section** initially sought additional information concerning the amount of percolation pipes on site, the suitability for the percolation area to accommodate the loading from a three-bed house, and submit a drawing of the as-constructed percolation area. Following submission of the further information the environment section reported no further objection.

3.2.4. **Roads Section** initially sought further information in relation to safe access to the R725. Subsequent to the submission of the additional information the Roads Section recommended refusal for lack of sightlines and resulting traffic hazard.

3.2.5. **Transport Department** reported no objection.

3.2.6. **Fire Officer** reported no objection.

## 3.3. Prescribed Bodies

**Inland Fisheries Ireland** raised concerns in relation to the proximity of the percolation area to the Burren River a tributary of the Barrow River SAC.

**Irish Water** reported no objections.

## 3.4. Third Party Observations

None

## 4.0 Planning History

Under reference number **12/52** permission was sought by Martin Moran for the retention of a mobile home, septic tank and percolation area and associated works on this site. Further information was sought in relation to the suitability of the site for disposal of septic tank effluent and detailed drawings in relation to the proposed septic tank and percolation area.

This application was withdrawn.

Under reference number **14/167** retention permission was sought for a mobile home, septic tank and percolation area and associated works on this site for Martin Murray. Permission was granted on 2<sup>nd</sup> February 2015 subject to a condition (condition 1(b)) which limited the lifetime of the permission to 3 years. A further condition, number 7, required that the domestic wastewater treatment plant comply with the EPA code of practice for waste water treatment and disposal systems serving single houses (2009).

Application number 1725 referred to the erection of a 4-span lean to hay shed and associated works for Martin Moran.

## 5.0 Policy Context

5.1. **The Spatial Planning and National Roads Guidelines for Planning Authorities (DoEC & LG 2012)** sets out advice in relation to how County/City Development Plans and Local Area Plans should seek to protect safety and carrying capacity on the national primary and national secondary road system. Development Plans should reflect the Department of Transport's policy set out in 'Smatter Travel 2009-2020', protect the capacity, efficiency and safety of national roads, ensure that transport and settlement patterns support each other, encourage non-fossil fuel reliant forms of transport, encourage the use of public transport, protect preferred routes signalled by the NTA, outline key transport corridors in the core strategy and adopt development standards set out by the NTA (DMURS for example). While the Guidelines refer specifically to national primary and national secondary routes planning authorities are strongly advised to identify those stretches of non-national roads where it would be appropriate to apply these guidelines.

5.2. In relation to development management the Guidelines advise (chapter 3) that demand management and road safety audits are key tools in protecting the carrying capacity and safety of roads.

### 5.3. Development Plan

The **Carlow County Development Plan 2015-2021** is the relevant county development plan for the area. The County Development plan has followed the

advice set out in the national guidelines by mapping the road network in the county and identifying the regional routes in the County. These regional routes include the R725 which the Plan describes as “heavily trafficked” to which the proposed development will have access. The County Development Plan includes **Policy 4** in relation to transport on regional routes which states that it will be the policy of Carlow County Council to “Exercise control over new developments requiring direct access to regional roads by restricting new access points to a minimum to preserve their strategic function and in the interests of traffic safety”.

#### **Policy 2.7.7 Backland Development**

The Council discourages backland development. All new developments in rural areas must have minimum road frontage of 20m.

#### **5.4. Natural Heritage Designations**

See AA screening below.

### **6.0 The Appeal**

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

- The entrance is an existing entrance which has previously served a mobile home and agricultural shed.
- The applicant works in the equestrian business which occupies this landholding and the proposed development will not increase the volumes of traffic using this entrance.
- The county development plan recognises that exceptions should be made for persons who work on landholdings as in this case.
- The original house is now occupied by the current applicant’s former wife. Previously a 3-year permission was given for a mobile home. This has now expired.

#### **6.2. Planning Authority Response**

- The proposed development is an intensification of access to a regional route.

- The application site does not have 20m road frontage as required in the county development plan.
- The sightlines at the access junction with the regional route are inadequate.

### 6.3. **Observations**

None

### 6.4. **Further Responses**

None.

## 7.0 **Assessment**

7.1. I am satisfied that the main issues in this appeal are referred to in the planning authority's reasons for refusal. These are compliance with rural housing policy and traffic hazard arising from the proposed development. Additionally, I will address surface and ground water pollution and AA screening.

### 7.2. **Rural Housing Policy**

7.3. The Sustainable Rural Housing Guidelines for Planning authorities (DoEHLG 2005) recommend that the planning authority in preparing development plans distinguish between urban and rural generated housing need. Broad categories of persons who may qualify on a rural housing need basis would include persons who are an intrinsic part of the rural community such as farmers and their families, persons working full time or part-time in rural areas, persons who have lived in a rural community including persons who have lived abroad and wish to return home.

7.4. The Carlow County Development Plan 2015-2021 has followed the advice set out in the national guidelines and the application site is in an area mapped as an 'Area under Strong Urban Influence' in the core strategy map in the plan. The planning authority adopted a Rural Settlement Strategy as part of the core strategy and it is the planning authority's policy to encourage development within the boundaries of existing settlements listed in table 2.8.

7.5. In relation to one-off housing in the countryside (development plan section 2.7.1.3) it is the policy to facilitate the development of one-off housing throughout the county by

persons demonstrating local rural generated housing need. The development plan sets out several criteria against which local housing need will be considered. These include, *inter alia*, persons whose occupation is in agriculture, houses for the applicant's own occupation who wish to live in a rural area, immediate family members of a householder/landowner, returning migrants to a rural area, persons who have lived in rented accommodation in the area for 3 years, persons who wish to downsize within the area and others.

7.6. The planning authority refused permission because the proposed development did not comply with the County Development Plan's policy in relation to rural housing outside designated settlements or towns and where new housing is restricted to persons involved in agriculture and or to other restricted categories of persons. The planning authority sought additional information from the applicant in relation to the local housing need basis for the application since the site had been for sale and the application may be a speculative attempt to gain planning permission for a house which would not meet a local housing need. The applicant responded that the sale of the landholding was part of a family dispute which has since been resolved and the site and adjoining equestrian business is not now for sale.

7.7. I have considered the information on file, the planning history of the landholding the subject of this application and the national and local policy in relation to rural generated housing need. I conclude that the applicant is employed in agriculture which is sufficient to meet the criteria for one off housing set out in the County Development Plan.

#### 7.8. **Traffic Safety**

7.9. The Spatial Planning and National Roads Guidelines for Planning Authorities (DoEC & LG 2012) sets out advice in relation to how County/City Development Plans and Local Area Plans should seek to protect safety and carrying capacity on the national primary and national secondary road system. The Guidelines advise that along with motorways, national primary and national secondary development plans should identify particularly important and/or heavily trafficked regional routes where restrictions on additional access points should apply. The Carlow County Development Plan identifies the regional routes in Map 5.1 in the County

Development Plan and states (section 5.2.3) that the Carlow to Tullow R725 is a heavily trafficked route to which access will be restricted as it is to national routes under the Spatial Planning and National Roads Guidelines for Planning Authorities (DoEC & LG 2012).

- 7.10. The development plan requires that houses have 20m of road frontage. The proposed development is accessed from a private lane without public road frontage which serves several existing residential and agricultural uses including the applicant's equine business. There are no footpaths, cycle paths or median line on this road. Its width is inadequate to allow cars to pass at some points and its horizontal alignment is inadequate, especially at the southern end closer to the site.
- 7.11. This access road has a junction with the R725 to the northwest of the site where the speed limit of 80kms applies. Sightlines to the northwest, towards Carlow, are very poor while sightlines to the east, towards Tullow, are absent until a motor vehicle enters the public road. This issue was raised by the planning authority's roads section which reported that permission should be refused because of an absence of sightlines. The applicant was given an opportunity to address this matter through the submission of additional information (see point 3(a)) but did not adequately address the road safety issue. After the submission of additional information, the planning authority's roads engineer repeated his advice that permission should be refused because there are no sightlines from the junction of the access road with the regional route in the Tullow direction.
- 7.12. The potential mitigating point in relation to road safety is that there is an existing mobile home on site. The appeal makes the point that the applicant's personal circumstances necessitated this mobile home the permission for which has now expired. I consider that the previous temporary permission for the mobile home could have facilitated the applicant satisfying a housing need in a manner which does not give rise to traffic hazard.
- 7.13. I conclude that the proposed development will give rise to additional traffic turning movements on a regional route at a point where sightlines are inadequate which will endanger public safety by reason of traffic hazard.



#### 7.14. **Surface Water Pollution**

7.15. The Inland Fisheries Ireland (IFI) made a submission to the planning authority stating that;

- a) the application should demonstrate compliance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses,
- b) the site is close to the River Barrow and that concrete/cement washings have the potential to give rise to fish kills,
- c) that building works should ensure that there is no discharge of suspended solids during construction phase,
- d) that a buffer of 10m be maintained between workings and the river,
- e) All fuel/oil tanks be adequately bunded areas away from the river,
- f) Refuelling of machinery should be carried out in bunded areas.

7.16. This submission was forwarded for comment to the applicant with the request for additional information. Apart from item number 1 and as noted in the planning authority's planner's report on file the applicant did not address the issues raised by IFI. I consider that apart from the reference to foul effluent disposal the concerns of IFI relate to the release of contaminants into surface water. I have consulted the material published by the NPWS including its maps of the SAC and I note that the Barrow flows through Carlow town and west of the M9. The planning authority's Environment Engineer reported that there would be no significant effect on the Burren River. The AA screening report submitted with the application states that there is a drainage ditch 20 distant from the site boundary and that this is 680m from the Burren River. Having regard to my site inspection during which I did not identify any surface water features on site, the material submitted with the application and the material published on the NPWS website I consider that there is no surface water pathway between the application site and the Burren River which is south of the site and flows, generally, northwest before its confluence with the Barrow in Carlow town centre. Therefore, I conclude, subject to good building practice, that the proposed development will not give rise surface water pollution.

### **7.17. Ground Water Pollution**

7.18. There is an existing mobile home on site which is served by a septic tank/percolation system which was permitted under a previous permission (reference number 14/167). The Environment Section (see first report dated 9<sup>th</sup> March 2018) noted that the percolation area constructed under reference 14/167 may not have been properly constructed. This is a reference to the minimum percolation trench lengths for five-person houses at Table 7.2 of the EPA code of practice. The planning authority initially sought additional information in relation to the length of percolation pipe constructed on site, confirmation that the percolation area can accommodate effluent from a 5pe dwelling house and submission of an as-constructed drawing of the percolation area.

7.19. The applicant replied to the request for additional information including the details sought (see additional information received by the planning authority 18<sup>th</sup> May and 30<sup>th</sup> May 2018). The site layout drawing shows the existing percolation area which provides 90 linear metres of trench within the polishing filter in compliance the EPA code of practice. The site suitable assessment report submitted with the earlier application is attached with the history documents. The assessment found that the site had a T value of 26 which, having regard to table 6.3 of the EPA code of practice, demonstrates that site is suitable for the safe disposal of septic tank effluent. The planning authority's environment engineer reviewed the additional information and recommended a grant of permission.

7.20. Having regard to the existing accommodation served by a septic tank and percolation area, the additional material submitted with the application and the reports on file I conclude that the proposed development may be drained to a septic tank and percolation area without risk of rise to water pollution or prejudice to public health.

### **7.21. Appropriate Assessment Screening**

7.22. The application is accompanied by an Appropriate Assessment screening report. The screening report identifies the River Barrow and River Nore SAC (002162) as potentially open to likely significant effects from the proposed development. The screening report sets out the qualifying interests and the conservation objectives for

the SAC. The report finds that there is no pathway linking the application site and the SAC. Having regard to;

- my site inspection which identified no water courses within the application site and therefore the absence of a hydrological pathway between the application site and the SAC,
- the suitability of the site for the safe disposal of domestic effluent,
- the qualifying interests and conservation objectives set out by the NPWS for the SAC,
- the modest scale of the proposed development and the foreseeable emissions therefrom,

I conclude that 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.

#### **7.23. Environmental Impact Assessment Screening**

7.24. Having regard to nature of the development comprising a single house 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**

8.1. I recommend permission be refused.

## 9.0 Reasons and Considerations

The Spatial Planning and National Roads Guidelines for Planning Authorities (DoEC & LG 2012) states that the creation of new accesses, and intensification of existing accesses, to national roads give rise to the generation of additional traffic turning movements that introduce additional safety risks. The Guidelines recommend that planning authorities in Development Plans identify stretches of non-national roads where the national policy to limit risk to traffic safety should apply. The Carlow County Development Plan has identified the R725 Carlow/Tullow regional road as a heavily trafficked route where new access should be restricted in the interest of traffic safety. The proposed development would give rise to an intensification of use through additional traffic turning movements on the Carlow to Tullow R725 regional route at a point where sightlines are inadequate and where the 80kph speed limit applies. The proposed development would, thereby, endanger public safety by reason of traffic hazard and be contrary to the proper planning and sustainable development of the area.

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Hugh Mannion  
Senior Planning Inspector

13<sup>th</sup> December 2018