



An
Bord
Pleanála

Inspector's Report ABP-302248-18

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| Development | Two Storey Dwelling, Septic Tank, Percolation Bed to share existing entrance and driveway and all associated site works. |
| Location | Ross, Kilmeaden County Waterford |
| Planning Authority | Waterford City and County Council |
| Planning Authority Reg. Ref. | 18/345 |
| Applicant(s) | Catherine & Finbar Tymon |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Transport Infrastructure Ireland |
| Date of Site Inspection | 02 nd October 2018 |
| Inspector | Colin McBride |

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.53 is located on the north side of the N25 National Primary route (Waterford to Cork road). The appeal site is located approximately 17km to the west of Waterford City. The appeal site is part of a larger field. Levels on site increase moving from south to north away from the public road. To the north west of the site is an existing two-storey dwelling with the appeal site including the driveway access and vehicular entrance onto the public road of the adjacent dwelling. To the south is an agricultural shed with an existing laneway access to the field the site is part of from the N25 as well as an existing dwelling located to the south west of the shed. Lands to the north and west of the site are agricultural lands part of the field the site is taken from. The site has an existing hedgerow boundary along its north eastern boundary where it adjoins the existing dwelling.

2.0 Proposed Development

2.1. Permission is sought to construct a two-storey dwelling, septic tank, percolation bed and to share existing recessed entrance and driveway. The proposed dwelling has a floor area of 317.64sqm and a ridge height of 7.850m. The dwelling is located immediately to the south west of an existing two-storey dwelling and on a similar building line. The dwelling is to be accessed through the existing entrance driveway serving the existing dwelling on the adjoining site.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 9 conditions. Of note are the following conditions.

Condition no. 2: Occupancy condition.

Condition no. 3: Shared entrance to be used.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (09/07/18): It is noted the proposal is consistent the Council's National Road Policy as set out in Variation No. 1 of the Waterford County Development Plan 2011. It is noted that adequate sightlines are available at the existing entrance and the design of the dwelling is satisfactory. A grant of permission was recommended based on the conditions outlined above.

3.3. Prescribed Bodies

TII (05/06/18):

Proposal is at variance with official policy controlling frontage along national routes under the Spatial Planning and National Roads Guidelines.

The proposal would create an adverse impact on the national road where the maximum speed limit applies.

It is policy under Section 2.5 of the guidelines to avoid the creation of any additional access points or increased traffic from existing access points.

3.4. Third Party Observations

Submission from Cllr Liam Brazil:

Support noted for the proposed development with it stated that the proposal is consistent with Local Authority policy and would not lead to an increase of traffic at the existing entrance.

4.0 Planning History

PL93.300126: Proposal to construct a two-storey dwelling on the appeal site, refused by the Local Authority and appealed, appeal withdrawn.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Waterford County Development Plan 2011-2017. The site is zoned Agriculture with a stated objective 'to provide for the development of agriculture and to protect and improve rural amenity'.

The site is within an 'Area Under Urban Pressure' under rural housing policy.

Section 4.9.1 Area Under Urban Pressure

Areas classified as Under Urban Pressure are located close to the immediate environs or commuting catchment of cities and towns or to major transport corridors with ready access to urban areas. They are characterised by rapidly rising populations or are under considerable pressure for housing development.

The key development plan objectives in this area are, on the one hand, to facilitate the housing requirements of the local rural community, subject to satisfying site suitability and technical considerations, whilst on the other hand directing urban generated development to areas zoned for housing in the adjoining service centres and settlement nodes.

Policy SS3

To cater for the housing requirements of members of the local rural community who have a genuine local housing need in areas under urban pressure as set out in the Criteria in Section 4.10.

Policy SS4

To direct urban generated housing development in Area Under Urban Pressure into the adjoining zoned settlements.

Section 4.10 Genuine Local Housing Need

As stated above, applicants for housing in Areas Under Urban Pressure and in the Stronger Rural Areas will be required to demonstrate a Genuine Local Housing

Need. The applicant must demonstrate, to the satisfaction of the Planning Authority that he/she can comply with one of the following criteria:

- A landowner who owned the property prior to 4th March 2004 wishing to build a permanent home for his/her own use;
- A farm owner or an immediate family member (son, daughter, mother, father, sister, brother, heir) wishing to build a permanent home for their own use on family lands;
- A favoured niece, nephew or heir (maximum of 2 persons per farm owner) of a farm owner with no children wishing to build a permanent home for their own use on family lands;
- Persons working fulltime or part-time on a permanent basis, in a specific rural area who by the nature of the work need to be close to the workplace;
- A son or daughter of an established householder (who has lived in the area for three years or more) wishing to build a permanent home for their own use to live immediately adjacent to their elderly parents to provide care;
- Persons who were born and lived for substantial parts of their lives (three years or more) in a specific rural area, who then moved away and who now wish to return to their home places to reside near other family members, to work locally, to care for elderly family members or to retire; and
- Persons who because of exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation may require to live in a particular rural area or close to family support (or vice versa).

Section 10.1 National Roads

National policy in relation to access to national roads is set out in the Spatial Planning and National Road Guidelines for Planning Authorities (DoECLG, 2012). There has been considerable financial investment in National Primary and National Secondary Routes in recent years, to increase carrying capacity and to improve safety for road users. A multiplicity of entrances onto these routes would create a traffic hazard and reduce carrying capacity of the routes significantly. Therefore, it is a policy of the Council to avoid the creation of any additional access points from new development to which speed limits greater than the 60kmh apply in accordance with Government Policy as outlined within the Spatial Planning and National Guidelines

for Planning Authorities (2012) issues by the DoECLG. This provision applies to all categories of development including house in rural areas, regardless of the housing circumstances of the applicant.

5.2 National Policy

Spatial Planning and National Guidelines for Planning Authorities (2012)

Section 2.5 Required Development Plan Policy on Access to National Routes

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.

Section 2.6 Exceptional Circumstances

(2) Lightly-trafficked Sections of National Secondary Routes

A less restrictive approach may also apply to areas where additional development may require new accesses to certain lightly-trafficked sections of national secondary routes. Such areas would be confined to lightly trafficked national secondary roads serving structurally weak and remote communities where a balance needs to be struck between the important transport functions of such roads and supporting the social and economic development of these areas. In such areas, policies in development plans permitting new accesses to national secondary roads may be considered acceptable where the following criteria apply:

- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.

Where planning authorities wish to identify an area/national road where the

foregoing less restrictive approaches could apply in a development plan or local area plan they must:

- (a) Consult with the NRA at the earliest practicable stage in reviewing the development plan on the identification of areas and developments that the planning authority considers represent exceptional circumstances, taking the criteria above and below into account; and
- (b) Ensure that any submissions from the NRA have been fully and properly considered within the process of preparing the plan.

5.3 **Sustainable Rural Housing**

The appeal site is located in an area defined as a Stronger Rural Area.

In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.

5.4 **Natural Heritage Designations**

None in the vicinity

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A third party appeal has been lodged by Transport Infrastructure Ireland. The grounds of appeal are as follows...

- The proposal entails use of a direct access to the strategic N25 where the 100kph speed limit applies and is at variance with the provision of official policy.
- The N25 is of strategic and national importance. The proposal would be at variance with policy outlined in the Spatial Planning and National Road

Guidelines for Planning Authorities and would set an undesirable precedent for similar development.

- It is noted that the proposal is contrary Section 2.5 of the national guidelines regardless of the circumstance of the individuals seeking permission. The proposal would bring about additional turning movements and additional traffic safety risks at this location.
- The grant of permission is inconsistent with the provision of the Waterford County Development Plan in particular Objective INF 1, which seeks to protect the carrying capacity of national routes. The appellants does note that Section 2.6 of the guidelines does allow a less restrictive approach along national secondary routes but notes that the N25 is a heavily trafficked route with an AADT of 10,511 for 2017 and such exceptional circumstances do not apply in this case. The appellant acknowledges Variation no. 1 of the Development Plan and Section 10.1 and notes that such is not consistent with national policy. The appellant notes Section 34(2) of the Planning Act and that national policy should supersede Local policy in this case.
- The appellant highlights road safety concerns associated with the proposal due to additional turning movements proposed and the high speeds of traffic using the national route. It is noted that the application was accompanied by a Road Safety Audit and Traffic Impact Assessment however it is noted that the Roads Safety Audit was not undertaken in accordance with standards set out by the TII.
- The appellant notes the planning history on the site and a previous refusal under 17/518 for the applicants' son (appealed under PL09. 300126 but appeal was withdrawn). It is noted that no exceptional circumstances have been demonstrated to deviate from the previous refusal on site.
- The decision to grant permission deviates from the objective to safeguard the strategic function of the national road network and investment made in such.

6.2. Applicant Response

Response by Bon Gunkel Planning on behalf of eth applicants, Finbar & Catherine Tymon.

- The applicant notes the provision of the Spatial Planning and National Road Guidelines for Planning Authorities and Section 2.5 and under Section 28 of the Planning and Development Act 2000(as amended) Planning Authorities and An Bod Pleanala are required to have regard to such guidelines in the performance of their functions under the Planning Acts.
- The applicants note policy under Variation no. 1 Section 10.1 of the County Development Plan. It is noted that this variation refers to creation of new entrances only on national routes and not intensification of existing access points, it is noted that Council policy had regard to national policy but did not rigidly follow it in drafting their policy for national routes. It is noted that the Planning Authority have had regard to national policy and such guidelines are not strictly mandatory.
- It is noted that the proposal would not lead to an intensification of traffic movements at the existing access point as there will be no increase in people using the existing access with it noted that applicants current live in the existing dwelling with their two sons and daughter in law.
- It is noted that reference to standards for Road Safety Audits are not relevant as the standard referred to be the appellants is for road schemes. It is noted that Traffic Impact Assessment was submitted including details of traffic flows.
- It is noted that the applicants and their son meet the criteria for a dwelling within an Area Under Urban Pressure under the County Development plan and Policy 4.10 as well as being consistent with policy under the Sustainable Rural Housing Guidelines.
- The applicant request that in the event of grant of permission the wording of any occupancy condition is consistent with that recommended under The Sustainable Rural Housing Guidelines. It is also noted that the applicants have a landholding of 55 hectares at this location and have no other public road frontage other than onto the N25.

6.3. Planning Authority Response

No response.

7.0 Assessment

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

Development Plan/National policy

Traffic safety

Appropriate Assessment

7.2. Development Plan/National policy:

7.2.1 The proposal is for a new dwelling in a rural area classified as an Area Under Urban Pressure under Development Plan policy. According to the Development Plan policy applicants for housing in Areas Under Urban Pressure and in the Stronger Rural Areas will be required to demonstrate a genuine local housing need. The applicant must demonstrate, to the satisfaction of the Planning Authority that he/she can comply with one of a number of criteria listed above. The applicants own a farm holding of 55 hectares at this location, the running of which is being taken over by their son who also lives at this location. The applicants seek to build a retirement home adjacent to their existing home and use the existing entrance of such for the new dwelling and pass the existing dwelling on to their son. The Planning Authority were of the view that the applicants were in compliance with Development Plan policy in this regard.

7.2.2 I note the criteria set down under Development Plan policy and that the applicants are landowners at this location prior to 2004 as specified in the criteria. The policy requires demonstration of a genuine local housing need. I would question whether the applicants themselves have a genuine local housing need given that they have a dwelling at the location in question. Based on the information on file the new dwelling

is to facilitate the applicants who wish to pass on their existing dwelling to their son who is taking over the running of the farm at this location as well as indication in the information submitted that the son may be the one to build and occupy the dwelling proposed (the son applied for permission on the site previously and was refused under 17/518 with a subsequent appeal under PL93.300126 withdrawn).

7.2.3 The appeal site is located on the northern side of the N25 National Primary Route. Development Plan policy under Section 10.1 of Variation no. 1 of the County Development Plan notes national policy in relation to access to national roads as set out in the Spatial Planning and National Road Guidelines for Planning Authorities (DoECLG, 2012). It is noted that a multiplicity of entrances onto these routes would create a traffic hazard and reduce carrying capacity of the routes significantly and it is a policy of the Council to avoid the creation of any additional access points from new development to which speed limits greater than the 60kmh apply in accordance with Government Policy as outlined within the Spatial Planning and National Guidelines for Planning Authorities (2012) issued by the DoECLG. This applies to all categories of development including house in rural areas, regardless of the housing circumstances of the applicant. Waterford County noted that as the proposal includes sharing of an existing access it is compliant with Development Plan policy. I would note that development plan policy only seems to preclude new access points and makes no reference to intensification of existing access points despite the provision of the national guidelines.

7.2.4 National policy is contained under the Spatial Planning and National Guidelines for Planning Authorities (2012 DoECLG). Section 2.5 outlines required Development Plan Policy on access to National Routes (speed limit greater than 60kmh). The policy 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. Under Section 2.6 Exceptional Circumstances are provided and such refers to lightly trafficked sections of National Secondary Routes

In such areas, policies in development plans permitting new accesses to national secondary roads may be considered acceptable where the following criteria apply:

- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.

This does not apply as the N25 is a National Primary route and even if it was a secondary route the N25 has significant traffic volumes above the standards noted under Section 2.6.

7.2.5 The proposal to use an existing access for a new dwelling within the 100kmh speed limit zone of the N25 would be contrary to national policy to avoid the creation of any additional access point from new development or generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. The applicants note that the proposal is not intensification of the existing access detailing who currently lives in the existing dwelling served by the access, which includes the applicants themselves, two sons and a daughter in law. I do not accept that this fact means the proposed dwelling would not lead to an intensification of traffic movements at the existing entrance. The existing entrance serves one dwelling at present and it is proposed that will serve two independent dwellings. Based on this fact I would consider that the proposal would constitute intensification of an existing access on a National route and be contrary to national policy. In addition I would note that the provision of Section 2.6 of the National guidelines do not apply as the N25 is National Secondary route and is not a lightly trafficked route. The TII note that the AADT for 2017 for the route is 10,511 and current data (TII traffic count data) note that volumes are on an upward trend. Permitting the proposed development would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

7.3 Traffic Safety:

7.3.1 As noted above the proposal uses an existing entrance serving a dwelling on the site adjacent (north east). The applicants submitted a Road Safety Audit and Traffic Impact Assessment. Information included in this document includes detail of sightlines with it noted that 215m sightlines are available in both directions at the vehicular access point. The document includes details of traffic counts at the entrance including an assessment of turning movements. It is noted that the turning movements at the existing entrance is extremely low and that adequate visibility is available and in accordance with Development Plan standards. It is concluded that the existing level of traffic movements at the entrance is low and that an increase would also be not significant with the proposal development considered to have a minimal impact on existing traffic conditions.

7.3.2 I would consider that the use of the existing entrance would give rise to additional turning movements onto and off a heavily trafficked national primary route, where the maximum speed limit applies and in this regard the proposal would constitute a traffic hazard, would interfere with the safety and free flow of traffic on this National Route and set an undesirable precedent for further development and traffic movements of this type.

7.4 Appropriate Assessment:

7.4.1 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. Under section 2.5 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) it is recommended policy for Planning Authorities “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”. The proposal entails intensification of traffic at an existing access point onto the N25 National Primary route where the maximum speed limit of 100kmh applies. The proposal would be contrary national policy in regards to access to development along the national road network and would set an undesirable precedent for similar development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the development site on a heavily trafficked and overtaking section of the N25 (National Secondary Road) where maximum traffic speeds apply it is considered that additional traffic movements arising from the proposed development would endanger public safety by reason of traffic hazard and would interfere with the safety and free flow of traffic on this National Route. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

12th October 2018