



An
Bord
Pleanála

Inspector's Report ABP 302543-18.

Development	Serviced dwelling house, garage, treatment plant and access road.
Location	Drumatober, Gurty Madden, Co. Galway.
Planning Authority	Galway County Council
P. A. Reg. Ref.	18/849
Applicant	Finian Coone and Jacinta Madden
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party x Grant of Permission
Appellant	Transportation Infrastructure Ireland (TII)
Date of Site Inspection	6 th December, 2018
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site which has a stated area of 4,300 square metres and is located on the north side of the N65 (National Secondary Route) approximately two kilometres to the south west of Gortymadden. It formed from agricultural lands within the applicant's family landholding and has frontage which includes an agricultural entrance approximately sixty metres in length onto the N65. There are trees and indigenous hedgerow along the boundary and within the site. The family dwelling is located to the east side of the appeal site and to the east of it are farm buildings with a separate entrance and an unoccupied dwelling.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority on 21st June, 2018 indicate proposals for construction of house with a stated floor area of 265 square metres and a detached garage on the site. The footprints for the proposed dwelling and garage are shown circa forty metres back from the road frontage.

For vehicular access alterations are to be made to the existing setback at the frontage adjacent to the entrance to the family dwelling to which a separate driveway serving the proposed dwelling is to be constructed. This driveway is to be partially routed through lands outside the application site to the entrance on the N65.

- 2.2. Wastewater treatment system and a specification and site assessment report are included. Surface water disposal is to be to the ground through soakpits and water supply is to be provided by a group water scheme.

According to the application, the applicant is employed as a teacher, assists his father on the family farm and resides, with his partner in accommodation which is rented from "Orla Donlan and Paul Martin" with an address in London.

2.3. Prescribed Bodies

The submission of Transportation Infrastructure Ireland indicates a recommendation that permission be refused because use of the entrance would have an adverse impact on the national strategic route (N65) where the maximum speed limit applies due to endangerment of public safety and obstruction of other road users and

because precedent would be set for further similar development. It is stated that the proposed development does not accord with the provisions of the *Spatial Planning and National Roads: Guidelines for Planning Authorities*: issued by the DOECLG in 2012. (The 2012 Guidelines)

3.0 Policy Context

3.1. Development Plan

The operative development plan is the Galway County Development Plan, 2015-2021. (CDP)

Policy Objective T1 6 provides for the protection of the capacity and safety of the national and strategically important regional road network and provides for ensuring the compliance with the 2012 Guidelines in this regard. The objective confirms that it will not normally permit development with direct access or intensification of traffic from existing accesses on the national primary and secondary roads outside the 50 to 60 kph zones of villages and towns.

Policy Objective T1 7 provides for the safeguarding of carrying capacity, operational efficiency, safety and significant investment made in the Motorway and national road network.

DM Standard 18 – (Restricted Roads) With regard to access onto Restricted Road it is the policy of the planning authority to give consideration to needs of farm families to reside a family holding on a limited basis. A functional need to reside at the location should be demonstrated.

According to section 5.3 Galway relies heavily on its public road network for transportation due to its peripheral location.

The location is within an area categorised as Class 1 in the Landscape Character assessment for the county which is the least sensitive in a Class range of 1-5.

3.2. Spatial Planning and National Roads: Guidelines for Planning Authorities: (DOECLG 2012) (The 2012 Guidelines)

It is national policy to preserve the level of service, safety and carrying capacity of national roads and to protect public investment in such roads. It is therefore national policy to discourage creation of new access points directly onto national routes that would bring about additional turning movements and intensification of access on national routes. This policy is applicable to all categories including individual houses in rural areas. The need to accommodate and sustain rural communities is recognised in section 2.6 allowing for a less restrictive approach on lightly trafficked sections of national secondary routes. (Sections 2.5 and 2.6 refer.)

4.0 Planning Authority Decision

4.1. Decision

By order dated, 15th August, 2018, the planning authority decided to grant permission for the proposed development subject to conditions of a standard nature. Included are:

Condition No 2 which is an occupancy condition and,

Condition No 4 which contains standard requirements for maintenance of sightlines free of obstruction at the entrance and for alterations and setbacks to the site frontage, and retention of boundary treatment at a maximum height of one metre to provide for sightlines to be implemented at the applicant's expense. The reason provided is road safety.

4.2. Planning Authority Reports

The planning officer, having noted and considered the comments and recommendations in the submission of Transportation Infrastructure Ireland (Prescribed Body) and Policy Objective DM Standard 18 in the CDP concluded that permission should be refused in accordance with the recommendations with the submission of Transportation Infrastructure Ireland. However, an additional note (with the initial "EL") dated 15th August, 2018 added to the end of the report states

that the proposed development is acceptable having regard to the provisions of Policy Objective Standard 18 in the CDP and the applicant's intention to take over the running of the family farm at a future date.

5.0 Planning History

P. A. Reg. Ref: 18/93: This was a prior application for a dwelling on the family landholding which was withdrawn prior to determination of a decision.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by Transportation Infrastructure Ireland, (TII) (Prescribed Body) on 11th September, 2018. It is stated that the proposed development does not accord with Policy T1 6, T17 and DM Standard 18 of the Galway County Development Plan, 2015-2021 or the provisions of the *Spatial Planning and National Roads: Guidelines for Planning Authorities: (DOECLG 2012)* According to the appeal:

- Caution must be applied with regard to development proposals that would impede the operation of a strategic route. The N 65 is an important inter-regional route linking Borrisokane, Loughrea and Portumna with the M6.
- The proposed development is at variance with the national policy as it is at a location where the 100 kph maximum speed limit applies would compromise the safety and efficiency of the national road network.
- According to national policy in the 2012 Guidelines planning authorities should avoid creation of additional access points on national routes that generate additional vehicular movements resulting in intensification of access on and off national routes and creates additional safety risk to road users. This policy applies to the N65 and the proposed development is at variance with it. According to section 34 (2) of the Planning and Development Act 2000 as amended, the specific planning policy requirements of statutory guidelines, where they differ from those of a development plan shall apply.

- The guidance and standards in chapter 13 of the CDP on development management particularly, DM Standard 18 on access to national and other restricted road for residential development is also acknowledged.
- However, the CDP has a policy conflict with the 2012 guidelines relating to intensification of direct access onto national routes outside areas subject to the reduced 50 kph to 60 kph speed limits. A new conjoined access, (as proposed) fails to comply with this policy.
- The application does not include any evidence of assessment of scope for sharing an access or achieving access onto an alternative minor road. There may be scope for access onto a local road adjoining the landholding.
- TII concurs with the recommendation of the planning officer for refusal of permission on ground of variance with the national roads policy and, the CDP provisions and that the applicant does not have a functional need to reside at the site location. However, it is acknowledged that the applicant who is a teacher who is local to the area has a housing need. The applicant and the planning authority have not demonstrated exceptional reasoning for departure from the policy of avoidance of creation of new accesses and intensification of use of existing accesses, and associated road safety considerations.
- With regard to road safety considerations it should be borne in mind that 45-50 percent of traffic is on national routes although national routes account for just six percent of the total length of public roads in the country. There is a critical need to maintain protect and ensure the safety of the national strategic road network. Most road fatalities occur on routes where the 80 – 100 kph limit applies. Restriction of direct and intensification of access contribute to reductions in collisions and fatalities and a critical element of national policy objectives is the importance of guarding against a proliferation of new and intensified use of existing accesses that give rise to additional turning movements in the interest of safety for all road users.
- It is noted that a prior application by the applicant at a site slightly eastwards of which was withdrawn (PA. Reg. Ref. 18/93 refers) The TII has been seriously concerned because this application was not referred to the TII for comments The TII had recommended refusal of permission for a proposal

under P. A. Reg. Ref. 17/1081 for the same site but that application was also withdrawn prior to determination of a decision.

- There are other developments with direct access onto the N65 in the vicinity. The current proposal, as in the case of the proposals in the applications that were previously withdrawn, would endanger public safety by reason of traffic hazard due to the additional traffic, traffic turning movements generated on the N65 at a point where a speed limit of 100 kph applies. It would interfere with the free flow of traffic on the road where there are also several existing sites with direct access onto the N65, is in contravention of national road policy, road safety concerns and sets undesirable precedent.
- The proposed development interferes with the strategic function of national road network and the investment in it as provided for in Policy Objective TI 6 of the National Development Plan, the National Planning Framework (National Strategic Outcome Two) which provides for maintenance of the strategic capacity and safety of the national road network and the National Development Plan, 2018-2027 which ensures that extensive transport networks which were greatly enhanced in the past two decades are maintained to a high level in service accessibility and connectivity.

6.2. Applicant Response

A submission was received from Mark Fahy and Associates on 10th October, 2018 on behalf of the applicant. According to the submission:

- The inclusion of the word, “normally” with regard to development proposals entailing direct access or intensification of traffic from an existing access onto national primary or secondary roads outside the 50-60 kph speed limit demonstrates that a blanket ban is not best policy and recognises that exceptional circumstances may arise. DM Standard 18 in the CDP recognises the need for flexibility and the need to live on family holdings. It was included in the CDP despite submissions made by the TII advocating omission of this standard at the development plan review. The application falls within these exceptional circumstances. A blanket ban without due

consideration for people affected is not acceptable as people who reside on national roads should have their needs accommodated.

- At a pre planning consultation the proposal for an entrance was discussed and it was recommended to the applicant that the existing left-handed splay of the family home entrance would have a desirable design and would provide an almost independent entrance which would not contravene the thrust of DM Standard 18. No material differences to traffic movements in the vicinity of the site would occur. This layout was included in the application, but the applicant is willing to revert to use of the family home entrance to the site if required.
- With regard to housing need and to the exceptional circumstances that would be provided for under DM Standard 18, the applicant will take over the farm from his father who is in his seventies in the future. He has prepared for this by completing a foundation course in farming at Mountbellow and obtaining his Green Cert. He is a teacher but helps with the work on the farm in the evenings and weekends. The applicant will not be able to sustain his current commitments to the farm and to the local community if permission is refused. There is no suitable land within the farm holding without frontage onto a national route which would be suitable for development.
- The decision to grant permission is correct and is not at variance with the provisions of the CDP.

6.3. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. On consideration of the application *de novo*, except for the issues relating to the proposed direct access onto the N65, the proposed development accords with the policies and objectives of the Galway City Development Plan 2015-2021 regarding eligibility for consideration for development of a house in the countryside, dwelling design, site works and drainage arrangements. The sole issue central to the

determination of the decision having regard to the appeal is that of the proposed entrance arrangement directly onto the N65, a national strategic secondary route where the maximum speed limit applies. The N65 is an important route linking the settlements of Borrisokane, Loughrea and Portumna with the M6 and with each other.

- 7.2. The proposed development involves intensification of access and egress direct onto a national route involving the associated turning movements on and off the N65. It is in direct conflict with the strategic policy objectives supporting the delivery and operational capacity and safety of national strategic road network as provided for the National Planning Framework, (Objective T16) and national Planning Framework (Strategic Objective 2) which is reflected in in the 2012 Guidelines. It is agreed with the planning officer that policy DM standard 18 (Restricted Roads) within the CDP is in conflict with national strategic policy for restriction on residential development with direct access onto national routes.
- 7.3. While it might reasonably be argued that the impact of a development of the scale and nature proposed would, on a 'stand-alone' basis be of minimal significance in view of the strategic nature of the policy objectives for the national road network it is nevertheless in direct conflict. Any relaxation in adherence to the restrictions undermines and provides precedent for flexibility in the application of strategic policy restrictions leading to a resultant significant cumulative adverse impact on the operational capacity and safety of the national strategic road network where the maximum speed limit applies.
- 7.4. The view of the planning officer that the applicant does not have a functional need for a dwelling on the site beside the family dwelling and farm holding as indicated in his report is reasonable and is supported. There is no dispute that in principle, the applicant would be eligible for development of a house in the countryside, having regard to the eligibility criteria within the CDP policies for rural housing development. However, it is not agreed that the applicant's circumstances are of such an exceptional nature that favourable consideration to allow for use of an entrance direct onto the National route, resulting in intensification of turning movements onto and off the carriageway could be justified having regard to the provisions and scope of the 2012 guidelines which support national strategic policy for the the national road network. As stated in the appeal, according to section 34 of the Planning and

Development Act, 2000 as amended, (The Act.) where there is conflict between relevant statutory policy within a county development plan and, statutory planning guidelines issued under Section 28 of the Act, the policy requirements of the statutory guidelines rather than the CDP will apply.

7.5. Environmental Impact Assessment Screening.

Having regard to the minor nature of the proposed development and its location in an area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.6. Appropriate Assessment.

- 7.6.1. Having regard to the location and to the minor scale and nature of the proposed development, particularly the satisfactory arrangements that have been demonstrated for treatment and disposal of effluent, no Appropriate Assessment issues arise. The proposed development would not 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. In view of the foregoing, it is recommended that the appeal be upheld, and that the planning authority decision to grant permission be overturned.

9.0 Reasons and Considerations

The site of the proposed development is adjacent to the N65, a National Strategic Route directly off which it is to be served by an entrance at a location where the maximum speed limit applies. It is considered that the proposed development would generate intensification of use and additional turning movements for access and egress onto and off the carriageway to and from the proposed development. As a result, the proposed development would be in material contravention of conflict with the policy objective of the and Policy Objective TI 6 of the Galway County Development Plan, 2015-2021 according to which development with direct access or intensification of traffic from existing accesses on the national primary and secondary

roads outside the 50 to 60 kph zones of villages and towns will not be permitted and would set undesirable precedent for additional similar development resulting in adverse impact on the operational capacity efficiency and connectivity and safe and free flow of traffic on the strategic national road network. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
11th December, 2018.