



An  
Bord  
Pleanála

## Inspector's Report PL ABP-304555-19.

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<b>Development</b>	Dwellinghouse, garage and septic tank / treatment system.
<b>Location</b>	Killult, Falcarragh, Letterkenny, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council.
<b>Planning Authority Reg. Ref.</b>	18/50823.
<b>Applicants</b>	Geraldine and Ciaran Cannon.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Transport Infrastructure Ireland.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	16 <sup>th</sup> August 2019.
<b>Inspector</b>	Mairead Kenny.

## 1.0 Site Location and Description

- 1.1. The site is located in a coastal rural area in the north-west of Donegal County. The nearest village, Falcarragh, is within a few kilometers to the north-east. The area in which the site is located is heavily developed with one-off residential development.
- 1.2. The subject site forms part of the site of the lands associated with the family home. The family home is a modern dwellinghouse, which does not appear to be associated with a substantial plot of land apart from the application site of 0.65 hectares and two small roadside plots adjacent the house. The land was under meadow at the time of my inspection.
- 1.3. The site entrance to the existing house also serves as the entrance to the application site. The existing entrance is onto the N56, which is the primary connection between the villages and towns of the north-west. The roadside boundary is planted with evergreen trees at the site frontage of the existing house. A description of the adjacent national road is provided in the assessment section of this report.
- 1.4. Photographs of the site and surrounding area, which were taken at the time of my inspection are attached.

## 2.0 Proposed Development

- 2.1. Permission is sought for a dwellinghouse, which is of stated gross floor area of 204 m<sup>2</sup>. The house is a part-single part two-storey dwellinghouse and the proposed finished floor area is just over 2m above that of the existing family home and about 4m above the level of the adjoining road.
- 2.2. In response to a request for further information, which was received by the planning authority on 11<sup>th</sup> March 2019 the following was submitted:
  - The results of a speed survey.
  - Drawing 18-024-002 showing the junction.
  - A Road Safety Audit.
  - Details in relation to family circumstances.
  - Letters of support.

2.3. Clarification of further information received by the planning authority on 12<sup>th</sup> of April 2019 includes copies of the site layout plan which indicate unobstructed visibility splays over 215 m in both directions and signed letters of consent from third-party landowners.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

3.1.1. The planning authority decided to grant permission subject to conditions related to:

- To be in accordance with the revised site layout received on 12<sup>th</sup> of April 2019 and the road safety audit received on 11<sup>th</sup> of March 2019.
- Occupancy condition and requirement that restrictions be embodied in section 47 agreement.
- Prior to development improvements to existing junctions are to be carried out in accordance with revised plans, visibility splays of 215m to be provided in each direction at site entrance at N56 in accordance with details of 12<sup>th</sup> of April 2019.
- Water supply to be from the public mains.
- Details of septic tank.
- Other matters including landscaping requirement and development contribution scheme.

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

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

##### **Planner's report 29<sup>th</sup> of April 2019**

3.2.2. The planning authority is satisfied that the applicant has addressed all queries – the revised site layout showing vision lines of 215 m in each direction and letters of consent from all affected landowners are noted.

### **Planners report of 2<sup>nd</sup> April 2019**

3.2.3. This includes following comments:

- Further details needed in relation to the 215m sightlines and landowner consent.
- The road safety audit indicates that the existing access arrangements work well with no adverse safety effects but minor works are recommended to increase the hardstanding to provide a 6m radius.
- The applicant indicates that she has lived at this address for 34 years and resides there with her husband and cares for her elderly parents and the planning authority accepts the applicant's need to build a dwelling at this location.
- A detailed landscaping scheme has been received.

### **Planner's report of 11<sup>th</sup> of July 2018.**

3.2.4. This includes the following comments:

- Under the development plan the area is designated as a Structurally Weak Rural Area under RHP4, which policy provides that any prospective applicant with a need for a dwelling (urban or rural generated) will be considered if they can comply with all other relevant policies including RHP1 and RHP2.
- The lands are a designated HSA in the development plan – no other designation applies.
- The principle of the development is acceptable subject to compliance with technical considerations.
- Regarding RHP1 and RHP2 and the location of the site within HSA lands it is considered that taking into account the scattered single residential developments in the area and the specific topography of the site, there is capacity to accommodate a dwelling house. The varying ridge heights within the proposed development ensure that the scale does not appear excessive or incongruous adjacent to an existing bungalow. A detailed landscaping scheme should be presented.

### 3.2.5. Other Technical Reports

No other reports.

### 3.3. Prescribed Bodies

The report of the **HSE** dated 26<sup>th</sup> of June 2018 **recommends conditions** including construction of a mound of medium loam soil with T-value of 25 to 30 and constructed to ensure minimum separation distance of 1.2 m between invert level of population pipework and highest level of bedrock.

**TII** report dated 12<sup>th</sup> of June 2018 states that the development is **at variance with official policy in relation to control of development as outlined in Spatial Planning and National Roads Guidelines for Planning Authorities** for the reasons stated relating to adverse impact on the national road where the maximum permitted speed limit applies and would result in intensification of an existing direct access to a national road contrary to official policy in relation to control of development on national roads.

The report of **An Taisce** dated 5<sup>th</sup> June 2018 requests that the application be determined having regard to:

- **Housing provisions for rural areas and design guidelines** for rural houses in the development plan.
- **Objective 19 of the NPF and Sustainable Rural Housing Guidance for Planning Authorities 2005** which requires that applicants establish rural generated housing need and ensure protection of the key assets in rural areas such as water quality, natural and cultural heritage and landscape.
- Section 4.5 of that document refers to **protection of water resources** as a key natural asset. New dwellings in un-sewered rural areas should be directed towards sites where acceptable wastewater treatment and disposal facilities can be provided and avoiding sites where it is inherently difficult to provide and maintain such facilities, such as sites which are prone to extremely high water tables and flooding or where groundwater is particularly vulnerable to contamination.

- The impact of the proposed effluent treatment systems to have regard to both the individual and cumulative impact in conjunction with other existing proposed and approved developments in order to comply with the **EU Groundwater Directive**.

3.3.1. The planner's report refers to the report of DAHG on a previous application, which requested archaeological monitoring.

### 3.4. **Third Party Observations**

3.4.1. A submission on file by email dated 24<sup>th</sup> of March 2019 from Councillor Seamus O' Domhnaill supports the application and confirms as a near neighbour that the location is of a high standard of safety and in keeping with the development plan policies.

## 4.0 **Planning History**

4.1.1. PL242765 refers to an appeal related to **retention of equestrian facilities**. The reason for refusal by the board related to general disturbance and noise nuisance which it was considered would seriously **injure amenities and depreciate the value** of an adjoining dwelling.

4.1.2. PL234964 refers to an appeal related to a **proposed dwelling house** at a site currently used as a car parking area serving a hotel. **Removal of the car parking facility in the absence of alternative proposals would endanger public safety** by reason of traffic hazard due to resultant on-street parking and associated traffic movements on the heavily trafficked N56, which would interfere with the safety and free flow of traffic on public road and would therefore endanger public safety.

4.1.3. PL232738 refers to an appeal related to a **dwelling house at a site to the north** of the site of the current appeal. The Board refused permission for reasons related to **lack of specific rural generated housing need** in accordance with policy RH2 and to **visual amenities**. On the latter point the decision refers to consolidation of a pattern of development in the area by reason of the elevated position of the proposed house and its design characteristics, design and scale of the house involving removal of establish rural site boundary and the provisions of the development plan 2006 – 2012.

- 4.1.4. PL218198 refers to a **refusal of permission for a garage / workshop** at an existing fuel storage depot at a nearby site to the south. The reason for refusal related to impacts on **residential amenities**.

## 5.0 Policy Context

### 5.1. National Planning Framework

- 5.1.1. National Strategic Outcome 2 of the NPF includes the objective to maintain the strategic capacity and safety of the national roads network.

### 5.2. Development Plan

#### **Donegal County Development Plan 2018 – 2024**

- 5.2.1. **Policy T-P-4** is not to permit developments requiring new accesses or those which would result in adverse intensification of existing access point onto national roads where the speed limit is greater than 60kph other specific other roads shown on map 5.1.3. In exceptional circumstances developments of national and regional strategic importance may be considered where locations concerned have specific characteristics that make them particularly suitable for the developments proposed subject to such developments being provided for through the adopted plan including consultation with TII.
- 5.2.2. **Policy T-P-5** is to promote the quality and connectivity provided through the Strategic Road Network which is shown on Map 5.1.2 subject to environmental, safety and other planning considerations. The strategic road network map shows a national route encircling the coast which include the road where the site is located and also shows national roads which are inland or more peripheral. It is also noted as a tourist route.
- 5.2.3. Falcarragh is identified as a town with a special economic function and as such is on Layer 2 of the core strategy, but not for housing growth in particular pending upgrade to the wastewater infrastructure.
- 5.2.4. **Policy T-P-O-6** is to safeguard the carrying capacity of national and certain regional roads.

- 5.2.5. **Policy RH-P-1** is to ensure new rural housing is sited and designed so that it can be assimilated into the receiving environment and other requirements.
- 5.2.6. **Policy RH-P-2** sets out policy to consider proposals for new rural dwellings which meet a demonstrated need provided the development is of an appropriate design, integrates successfully into the landscape and does not cause a detrimental change or further erode the rural character.
- 5.2.7. **Policy RH-P-4** refers to Structurally Weak Areas. It is outlined in section 6.3.1 of the development plan that certain areas which were formerly 'Areas under Strong Urban Influence' were deemed not to merit that designation. Those in the more peripheral parts of the county including around Falcarragh were re-classified as Structurally Weak Rural Areas. It is a policy to consider proposals for new one-off housing within such areas from any prospective applicants with a need for a house (urban or rural generated need) provided they demonstrate that they comply with RH-P-1 and RH-P-2.

The site is in a designated **Area of High Scenic Amenity**. These have significant aesthetic, cultural, heritage and environmental quality that are a fundamental element of the landscape and identity of the county. These areas have the capacity to absorb sensitively located development of scale and design and use that will enable assimilation into the receiving landscape.

### 5.3. **Natural Heritage Designations**

The nearest European sites are:

- The land at the opposite side of the N56 is designated as Falcarragh to Meenlaragh SPA. The feature of interest is Corncrake.
- Lands adjacent to the SPA is the overlapping site, Ballyness Bay SAC. The features of interest are Estuaries, Mudflats and sandflats, sand dunes and whorl snail.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of the appeal by TII include:

- The development relies on a direct access to the strategic N56 where a hundred kilometres speed limit applies and is at variance with the provisions of official policy.
- The N56 is an important strategic route, which provides onward connection to the N13 and N15 both part of the EU TEN-T network. It provides access to goods and services for peripheral communities and allows for economically important onward connection to national markets and ultimately international markets. The strategic context of the road is acknowledged in the development plan (map 5.12) and in the core strategy.
- The grant of permission has potential to compromise safety and efficiency of the national road network.
- National policy applies to all categories of development including individual houses regardless of the housing circumstances of the applicant and it is considered that the provision of a new additional house regardless of those circumstances will inevitably bring about additional vehicle movements resulting in intensification of access.
- In particular the proposal contravenes objective T-0-6 and policy T-P-4 and objective T-0-2 and T-0-3 and policy T-P-5.
- Road safety considerations are of concern and as national roads account for under 6% of the length of public roads in the country they carry 45% of all road traffic and 50% of public transport and there is need to protect the safety of this finite and critical network resource.
- From a road safety perspective it is necessary to guard against the proliferation of roadside developments accessing national roads to which speed limits of over 60 K pH apply. The Road Safety Authority strategy 2013 – 2020 sets a target of reducing the number of accesses onto national roads by 5% by 2020.

- National Strategic Outcome 2 of the NPF includes the objective to maintain the strategic capacity and safety of the national roads network.

## 6.2. Applicant Response

The applicant sets out reasons why the grant permission should be upheld:

- Policy T–P–4 and map 5.1.3 refers. Notwithstanding it is also stated in the development plan that in exceptional circumstances developments of national and regional strategic importance may be considered where locations concerned have specific characteristics that make them particularly suitable for the development proposed and subject to such developments being provided for through the local area plan or development plan processes including consultation with TII.
- A traffic safety audit carried out was prepared and showed that technical standards can be met.
- We reside in the family home and have lived at this address for 35 years. I have looked after my mother who has been ill since I was eight. There is no intensification as we already reside at this address.
- We are employed as a nurse and an electrician and wish to build our own house on our own land in proximity to my parents. We will not otherwise be able to afford housing in this area.
- The access is to be by way of the existing access servicing the family home.
- Vision lines are in accordance with the County Council technical guidance and TII requirements as set out on the attached speed survey.
- My need to reside at this location is related to the care of my elderly parents. Their care and security is stressed.
- We are both native Irish speakers and wish to live beside family and in the area we grew up.

### 6.3. **Planning Authority Response**

- 6.3.1. The planning authority notes the submission of TII. The planning authority relies on the planners' recommendations in response to the third party appeal.

### 6.4. **Observations**

None.

### 6.5. **Further Responses**

None.

## 7.0 **Assessment**

- 7.1.1. I consider that the main matters which arise in this appeal relate to :

- Rural housing need and related policy matters.
- Compliance with policy relating to traffic including T-P-4.
- Sightlines and road safety audit.
- Site suitability assessment.
- Area of high scenic amenity.
- Appropriate assessment.

### 7.2. **Rural Housing Need**

- 7.2.1. I note that the planning authority accepts the statement submitted by the applicant regarding the need to build a house at this location and the fact that she continues to reside at her parents dwelling. Support for the applicant's submission was provided by an elected representative. At the time of my inspection I met the applicant herself. I am satisfied that as stated she is resident with her husband and child at the original family home. The need to reside at this location for the purposes of care for her elderly parents and the traffic, which would be generated if she resided at a different location and visited her parents at this house are cited in support of the application.

7.2.2. This is an area which is designated under the development plan as a structurally weak rural area. Regarding factors combined with the fact that both applicants stated they attended local schools and are native Irish speakers, I consider that the proposal may be described as constituting a rural generated dwelling. In any case, the broad policy approach for this structurally weak rural area is to facilitate rural and urban generated housing subject to other criteria.

### 7.3. **Compliance with policy T-P-4**

7.3.1. Policy T-P-4 precludes developments requiring new accesses or those which would result in adverse intensification of existing access points onto national roads where the speed limit is greater than 60kph and at other specific roads, which are shown on map 5.1.3. In addition the TII appeal submissions go into some detail on the matter of national policy and the protection of the capacity of the road network, which requires prohibitions on increased uses of existing access.

7.3.2. On the matter of whether or not there will be intensification of use associated with this proposal by reason of the additional dwelling house, I do not accept that the applicant's case is justified. I consider that the development plan policy T-P-4, relating to new accesses or to intensification of accesses is not met in this case.

7.3.3. I consider that the fact that the applicant does presently reside at this house is a factor which the Board should consider in terms of rural housing policy matters. However, I reject the idea that there is any support in the development plan for intensification of use of existing entrances or entrances onto the national road network. The wording of the development plan provides for exceptional developments of national or regional strategic level, but makes no reference to making exceptions in the circumstances which apply in this case. The TII is very clear in its interpretation of the matter of intensification of use of existing accesses. I concur that the development would give rise to intensification of use of the existing entrance and that would be contrary to policy provisions at all levels. I therefore conclude that the proposed development would contravene development plan policy T-P-4.

7.3.4. For the same rationale I conclude that the development would be contrary to the Spatial Planning and National Road Guidelines. It is furthermore important to

consider the particular nature of the N56, which is part of the county's Strategic Road Network. The submission of TII refers to the importance of the N56 as connecting to the TEN-T and in terms of its function in serving the area. The development plan policy sets out a range of policies in addition which highlight the critical connectivity which is met by these roads. I consider that the development in the context of the large number of accesses onto the N56 is contrary to the development plan objective T-P-O-6 to safeguard the carrying capacity of the roads, which policy is also stated in the National Planning Framework strategic objective 2.

- 7.3.5. I note that Policy T-P-4 does not simply discourage developments requiring new accesses or those which would result in adverse intensification of existing access point onto national roads where the speed limit is greater than 60kph. On the contrary it describes a clear and unambiguous policy 'not to permit' such proposals save in the case of developments of significance which are incorporated in the development or local area plan and which have been subject of consultation with TII. Those circumstances do not apply in this case and I reiterate my conclusion above that the proposed development would contravene that the development plan policy and I find it impossible to draw any other conclusion.
- 7.3.6. The Board is advised however road safety audit draws the opposite conclusion takes into account the fact that the applicants are already living in the house and concludes that the proposals offer no intensification of movement. I do not accept that approach. I consider that the grounds of the appeal should be upheld.

#### 7.4. **Sightlines routes.**

- 7.4.1. In relation to the engineering submissions, which are presented I refer the Board to the speed survey and visibility splay provision. The application submissions indicate that based on the speed survey a reduced visibility standard is appropriate. Following the request for clarification of further information a revised site layout plan showing unobstructed vision lines of 215 m in each direction and sight stopping distances of 215m in each direction was presented. These are accompanied by a map and letters of consent from the various landowners. I am satisfied that sufficient information has been provided to demonstrate that the proposal can achieve in satisfactory sightlines and I note that the applicant's submission include topographical survey data.

- 7.4.2. I propose to further discuss the information presented by the applicant in relation to the sightlines, speed survey and road safety audit.
- 7.4.3. The road safety audit (item 4.2) refers to a crest in the road approximately 50m south of the proposed access and to the risk that motorists accessing the site may not see oncoming vehicles as they leave the access and that sideswipe collisions may result. Photographs are enclosed which illustrate this point. It is noted in the RSA report that the checking design geometries is outside the scope of the report and it is stated that if it cannot be demonstrated that adequate visibility splays can be achieved, the recommendation is to relocate the access to the top of the crest of the hill. The speed survey results indicate that visibility splays equivalent to 160m for both approaches is appropriate and it is stated to be achieved as shown in drawing number 18 – 024 – 001. A further drawing on file is based on the topographical survey and it shows splays of 2.0 by 215m subject to maintenance/removal of roadside vegetation. Having regard to the submissions I am satisfied that the issue of sightlines is not a material issue which would warrant a refusal of permission.
- 7.4.4. I also note that the road safety audit has referred to the lack of a collision record along the site frontage. I consider that the conclusion in the road safety audit regarding collisions further to the north being associated with the geometry at that location is reasonable and I agree that the development would be outside the zone of influence of that section of road.
- 7.4.5. In summary I do not consider that the road safety audit or the applicant's submissions on sightlines warrant a refusal of permission.

## 7.5. **Site suitability assessment**

- 7.5.1. A detailed ***site suitability assessment*** report which was received with the application submission includes the following information:
- Groundwater protection response of R21 indicates likely suitability.
  - Groundwater flow direction is likely to be western and there is no evidence of surface water ponding and no springs or wells were encountered.

- The roadside drains along the north-western part of the site will accommodate all surface waters. An interceptor drain is to be placed 5m up gradient of the proposed percolation area intercepting and diverting all surface water run-off.
- Large-scale rock outcrop to the east of the site should not interfere with the proposed percolation area.
- Trial hole test results undertaken show a depth of trial hole of 1.6 m and water ingress did not occur at this level. Bedrock was reached at 1.6 m. No mottling was observed. Subsoil is/gravel and topsoil clay.
- The percolation (t-test) results confirmed subsoil suitability. Minimum distances are met. A septic tank and percolation area are recommended.

7.5.2. All of the above results are in accordance with the relevant EPA requirements under the code of practice. I concur with the conclusion of the planning authority that the development is acceptable in terms of the proposals for wastewater treatment.

## 7.6. **Area of High Scenic Amenity**

7.6.1. In relation to the location of the site within a scenic zone I broadly agree with the planning authority's assessment. I note that the proposed removal of trees and boundary walls for the purpose of increasing sightlines would have an adverse visual impact but no trees of particular aesthetic value would be removed. Having regard to the backdrop to the immediate rear of the site and the design of the dwelling house which includes varying ridge heights, I consider that the proposal subject to implementation of a detailed landscaping scheme would not be described as visually obtrusive to the extent as to warrant a reason for refusal. Any landscape plan might include randomly sited mounded berms and pockets of dense planting.

## 7.7. **Appropriate assessment**

7.7.1. Regarding appropriate assessment the screening report of the planning authority concludes that appropriate assessment of the proposed development is not required.

7.7.2. The appropriate assessment screening form attached describes the subject site as being in close proximity to the Falcarragh to Meenlaragh SPA (Site Code 004149) and Ballyness Bay SAC (Site Code 001090).

- The qualifying interests for Falcarragh to Meenlaragh SPA is corncrake .
- The qualifying interests for Ballyness Bay are estuaries, mudflats and sandflats, sand dunes and whorl snail.

7.7.3. The screening report notes in relation to these sites that there is no direct loss or fragmentation of habitat and that no part of the proposed development is within a Natura 2000 site. Further in relation to the SAC there is reference to the nature and scale of the development. I have considered whether there might be water quality or other impact pathways associated with the development, which might be relevant to impacts on qualifying interests. I consider that there are no such relevant pathways in this case.

7.7.4. I consider that it can therefore be excluded on the basis of objective scientific information that the proposed development will not have a significant effect on the Falcarragh to Meenlaragh SPA (Site Code 004149) and Ballyness Bay SAC (Site Code 001090) SPA.

## 8.0 Conclusion and recommendation

8.1.1. Having regard to the location of the development in an area of considerable existing rural housing development, adjacent a national road which is part of the Strategic Road Network identified in the development plan and to the national guidelines in relation to the control of access points onto national roads, and the adopted policy T-P-4 of the development plan, I consider that permission should be refused for the reasons and considerations below.

### 8.2. Reasons and Considerations

1. The proposed development would be served by an existing entrance onto a national road which is part of the county's Strategic Road Network which is identified in the Donegal County Development Plan 2018-2024 as being of importance in terms of connectivity between towns and villages and to the wider road network. Policy T-P-4 of the Donegal County Development Plan 2018-2024 is not to permit developments requiring new accesses or those which would result in adverse intensification of existing access point onto



national roads where the speed limit is greater than 60kph and Policy T-O-6 to safeguard the carrying capacity of national roads.

It is considered that the proposed development of a house at this location would result in the intensification of use of a private access onto the N56 national secondary road, where a speed limit of 100 km/h applies. It is considered that the additional and conflicting turning movements generated by the proposed development would endanger public safety by reason of traffic hazard, would interfere with the free flow of traffic on this national road, would compromise the level of service and carrying capacity of the road at this location, and would fail to protect public investment in the national road network, both by itself and by the undesirable precedent it would set for similar such development. The proposed development would contravene the provisions of the Donegal County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Mairead Kenny  
Planning Inspector

29<sup>th</sup> October 2019