



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304953-19

---

<b>Development</b>	Two storey dwelling and garage, new waste water treatment system, new entrance, bored well and all associated site works.
<b>Location</b>	Kilcruise, Wolfhil, Co.Laois.
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	18/728
<b>Applicant(s)</b>	Anthony and Cathy McElroy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant subject to Conditions
<b>Type of Appeal</b>	Third Party V. Decision
<b>Appellant(s)</b>	Transport Infrastructure Ireland (TII)
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	15 <sup>th</sup> October 2019.
<b>Inspector</b>	Susan McHugh

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	8
3.4. Third Party Observations .....	8
4.0 Planning History.....	8
5.0 Policy Context.....	9
5.1. Laois County Development Plan 2017-2023 .....	9
5.2. National Policy .....	11
5.3. Relevant Guidelines .....	12
5.4. Natural Heritage Designations .....	12
5.5. EIA Screening .....	12
6.0 The Appeal .....	13
6.1. Grounds of Appeal .....	13
6.2. Applicant Response .....	16
6.3. Planning Authority Response.....	19
6.4. Observations.....	20
6.5. Further Responses.....	20
7.0 Assessment.....	21
7.1. Principle of Development .....	22
7.2. Road Safety .....	26

7.3. Appropriate Assessment ..... 27

8.0 Recommendation..... 27

9.0 Reasons and Considerations..... 27

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Kilcruise in a rural area in the south east of County Laois. The site is approx. 12km to the south west of Athy, Co. Kildare, and 33km north of Kilkenny City, Co. Kilkenny. The site is adjacent to the National Secondary Road N78, which connects Athy, and Kilkenny City. It is a single lane carriageway where a speed limit of 100kph applies. The area is characterised by one off rural houses and agricultural land uses.
- 1.2. The proposed vehicular entrance to the appeal site is located along a section of road directly to the east of the N78. This 500m long section of road previously formed part of the N78, prior to the realignment of the National Secondary Road. There are two other houses, one of which is that of the applicants parents, along this section of road, which has two junctions/access points with the N78 at the northern and southern ends. The junction/access to the north is at a point where there is a continuous white line and where visibility is restricted. The junction/access to the south where it joins the N78 approx. 200m to the south of the appeal site benefits from good visibility.
- 1.3. The site is currently an open field with low hedgerow and a concrete post and rail fence forming the western boundary with the N78. The site is part of a larger family landholding located either side of the N78. The site is roughly rectangular in configuration has a stated area of 0.4045ha.

## 2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 05/12/2018, with further plans submitted on 31/05/2019. The latter triggered revised public notices.
- 2.2. The proposal as lodged comprises:
- 2.3. Permission to construct a new dwelling, garage, waste water treatment unit and percolation area and new site entrance.
- 2.4. The proposed dwelling house is a two storey dwelling with a stated area of 233.2sqm. The ground floor comprises open plan kitchen and sitting room with dining area and utility off the kitchen, and bedroom/playroom, shower room, office

and plant room. It also accommodates a master bedroom, walk in wardrobe and ensuite, two bedrooms and family bathroom at first floor.

- 2.5. The house is centrally located within the site and is set 21m from the front/eastern boundary and 30.5m from the rear/western boundary. It is traditional in design with a ridge height of 8.5m.
- 2.6. It is proposed to construct a single storey garage with a stated area of 45.35sqm. It is located to the side and rear of the proposed house and has a ridge height of 6m.
- 2.7. The proposed source of water supply is from a new private bored well located in the north eastern corner of the site.
- 2.8. A new waste water treatment system is proposed. A site suitability assessment was submitted with the application and based on the results the site was considered suitable for a proprietary waste water treatment system and polishing filter and percolation area. This is to be located to the rear of the proposed dwelling.
- 2.9. A new vehicular entrance is proposed along the north eastern part of the site onto the former N78.
- 2.10. The proposal as amended comprises;
- 2.11. It is proposed to block off the north western junction (where the former N78 meets the realigned N78), and instead access to the site is proposed from the south eastern junction with the N78.
- 2.12. The application was accompanied by the following;
  - Landholding map of family lands.
  - Letters of consent and support from the owners of two other properties along the road in respect of the closure of the northern access point.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The planning authority decided to **grant** planning permission 26/06/2019 subject to 15 no. standard conditions. Conditions of note include the following;

- Condition No. 2 & 3:** Waste Water Treatment and Disposal System requirements.
- Condition No. 4:** Potable water supply requirements.
- Condition No. 5:** Surface water requirements.
- Condition No. 7:** Vehicular entrance and sight distance requirements, at the proposed entrance, and the south-eastern junction where the unclassified laneway meets the N78 National Secondary Route.

*‘(g) The north-western junction where the unclassified laneway meets the N78 National Secondary Route shall be permanently closed to the satisfaction of the Planning Authority prior to commencement of development. Access to the development shall be from the south-eastern junction, where the unclassified laneway meets the N78 National Secondary Route.’*

- Condition No. 8:** Dwelling to be constructed in accordance with drawings received by the planning authority on 05/12/2018.
- Condition No. 9 & 10:** Utility, overhead power line and lighting requirements.
- Condition No. 11:** Site boundaries and planting.
- Condition No. 12:** Domestic garage limitations on use.
- Condition No. 13:** Waste Management.
- Condition No. 14:** Development Contribution.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (dated 30/01/2019, 01/02/2019 and 26/06/2019)

The **1<sup>st</sup> Senior Executives Planners Report** is the basis for the Planning Authority decision. It includes;

- Site located in Structurally Weak Rural Area, and the development is consistent with this policy.

- Proposed development would result in the intensification of an existing entrance onto the National Secondary route, contravenes policy TRANS7, and permission should be refused.
- The entrance to the north which forms a junction with the N78 has inadequate visibility and is a traffic hazard.
- Unclear as to whether adequate sightlines at the southern junction with the N78 can be achieved. If the application were to be considered further, further information would be required demonstrating that vehicular access could be closed at the junction to the northern end of this unclassified roadway.
- Notes report of the TII and proposed development should be refused for traffic safety reasons and is contrary to stated development plan policy.
- Private well proposed is acceptable.
- Subject site is extremely exposed and visible, the construction of any dwelling on this site will constitute an obtrusive feature in the rural landscape particularly when viewed travelling on the N78, and permission should be refused.
- Recommendation to refuse permission for three reasons.

The **Senior Planner/Acting Director of Services** notes the report of the Senior Executive Planner and recommends that further information be requested to explore the possibility of other sites on the landholding on the basis of the submission made by the TII, site suitability questions and integration of the dwelling into the landscape.

The **2<sup>nd</sup> Senior Executive Planners Report** can be summarised as follows;

- *Access* - Notes map of family landholding submitted and that no alternative access is available, other than straight onto the N78 National Secondary Route, which would be unacceptable on traffic safety grounds.
- *Sight Distances* – Notes details of achievable sight distances at the south-eastern junction, where the unclassified laneway meets the N78 National Secondary Route, which are far superior compared to those at the north western junction. The north-western junction where sight distances are seriously deficient will be closed. Consent from two other households on the unclassified laneway submitted.
- *Site Suitability* – Cross section of percolation area submitted.

- *Design* – Landscaping plan submitted, mature trees and hedgerows to be introduced on site.

The recommendation was to grant permission.

### 3.2.2. Other Technical Reports

- **Road Design:** Report dated 21/01/19 recommends no objections.
- **Executive Technician:** Report dated 19/12/18 recommends further information. Report dated 04/05/19 recommends no objections.

### 3.3. Prescribed Bodies

- **Transport Infrastructure Ireland (TII):** Initial Report dated 13/12/2018 notes that the proposed development would be at variance with official policy in relation to control of development on/effecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network. Second report dated 29/05/2019 notes that the Authorities position remains the same.

### 3.4. Third Party Observations

None submitted.

## 4.0 Planning History

### *Family Home to the North*

**P.A.Reg.Ref.04/1470:** Permission **granted** 05/07/2005 to construct a two storey dwelling, domestic garage, effluent treatment system and bored well for Brian McElroy, the applicants father.

### *Site to the North and Appeal Site*

**P.A.Reg.Ref.99/1050:** Outline planning permission **refused** 08/11/1999 for the construction of three dwellings and septic tanks for B McElroy. (File attached).

Reasons for refusal referred to;



1. Excessive density of suburban type development in an unserviced rural area which is outside any settlement designated for development, in the CDP.
2. Endanger public safety by way of a traffic hazard because the sites are accessed from a point on the N78 National Secondary Route at points where the maximum speed limit applies and where sight distance is restricted. The proposed development would result in a substantial increase in turning movements at these locations and consequently interfere with the safety and free flow of traffic on the N78. In addition, it is Council policy to prohibit development requiring access to National Secondary routes in areas where the maximum speed limit applies.
3. Prejudicial to public health as it would lead to an over-concentration of effluent drainage systems in the area where water supply is by means of bored wells, where percolation is extremely slow and water table is high. The proposed development would be likely to cause contamination to water supply sources.

*House to the south eastern side of the Appeal Site*

**P.A.Reg.Ref.08/70:** Permission **granted** 11/03/2008 for construction of a two storey dwelling house, waste water treatment system, percolation area and all associated site works for Cathal Quinn.

## 5.0 Policy Context

### 5.1. Laois County Development Plan 2017-2023

- 5.1.1. **Section 2.1** refers to the Core Strategy and identifies the appeal site as being located within **Zone D** (Figure 5 Core Strategy Map) see map attached.

**Zone D** (Timahoe/Swan) is categorised with Zone E (Slieve Blooms) – which have very definite rural and natural amenity with mixed farming and forested uplands. This scenario will lead to low levels of change in this zone – apart from increased pressure due to the development of tourism pursuits based on the natural amenities of these zones – walking, cycling, boating. Visitor attractions such as Abbeyleix Heritage House, Timahoe Round Tower and the Rock of Dunamaise are indicated

on the “Irelands Ancient East” Initiative to encourage the growth of the tourism product within this County. It is anticipated that related and complimentary tourism could flourish in this zone subject to environmental and proper planning sustainable development standards.

5.1.2. **Section 2.6** refers to rural housing strategy and the County is divided into three broad categories:

1. Areas under Strong Urban Influence,
2. Stronger Rural Areas and
3. Structurally Weak Areas.

The appeal site is located in an area defined as a ‘Structurally Weak Area’, (Figure 7 Rural Area Designations) see map attached.

5.1.3. **Section 2.6.1** refers to rural housing policy and rural area types.

The criteria for developing a dwelling in a rural area include;

- The applicant must come within the definition of a ‘Local Rural Person’.
- The proposed site must be situated within their ‘Local Rural Area’.
- The applicant must have a ‘Local Rural Housing Need’.

5.1.4. **Table 6** lists the Rural Area Designations and describes ‘Structurally Weak Rural Areas’ as *‘rural areas which generally exhibit characteristics such as persistent population decline as well as weaker economic structure based on indices of income employment and economic growth. These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing’*.

5.1.5. It is policy to *‘help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria’*.

5.1.6. TRANS7 which seeks to avoid *‘the generation of increased traffic from existing direct access/egress points to the national road network to which speed limits greater than 60kmh apply’*.

- 5.1.7. TRANS10 states ‘ensure that any development permitted along national roads is in accordance with the Spatial Planning and National Roads-Guidelines for Planning Authorities (DoECLG, 2012) or any updated version’.
- 5.1.8. **Appendix 6** refers to Landscape Character Areas and Map no. 6 identified the site within the ‘Hills and Upland Areas’.
- 5.1.9. **Appendix 7** refers to *Rural Design Guidance*.

## 5.2. National Policy

### 5.2.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

**National Policy Objective 19** refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

**National Strategic Outcome 2** refers to the objective to maintain the strategic capacity and safety of the national roads network.

### 5.2.2. Sustainable Rural Housing Planning Guidelines 2005

The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural typologies are identified including ‘stronger rural areas’ which are defined as those with generally stable population levels 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.

Examples are given to the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

The appeal site is identified as being in a ‘Stronger Rural Area’. (See map attached).

### 5.2.3. **Regional Planning Guidelines for the Midland Region 2010-2022**

Figure 4.4 Spatial Settlement Strategy identifies the site as being located within the Southern Development Area for the Region within the rural hinterland.

### 5.3. **Relevant Guidelines**

- Spatial Planning and National Roads Guidelines for Planning Authorities (2012) issued by the DoECLG.
- NRA Design Manual for Roads and Bridges (DMRB).
- EPA Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses (EPA 2009).

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

There are no Natura 2000 sites at or immediately adjacent to the development site. The nearest site is the River Barrow and River Nore Special Area of Conservation (Site Code 002162) , which is approx. 7km to the south-east.

### 5.5. **EIA Screening**

Having regard to the nature of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The Third Party appeal against the decision of the planning authority to grant permission was submitted by Transport Infrastructure Ireland (TII). The grounds of appeal can be summarised as follows;

#### National Policy

- Notes National Guidelines for Planning Authorities in relation to lands adjoining national roads to which speed limits greater than 60kmh apply. Notes the policy of the planning authority is to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads.
- Asserts that the provision of an additional house accessing the N78 by means of an intensively used private lane with direct access to the national road, will bring about additional vehicular movements resulting in intensification of access onto and off the N78, national secondary road. The proposal is considered to be at variance with the provisions of official policy.
- The decision by Laois County Council conflicts with the foregoing objectives of official policy to preserve the level of service, safety and carrying capacity of national roads and to protect the public investment in such roads and would establish an undesirable precedent for further similar works.

#### Local Development Plan Policy

- Proposed development is inconsistent with the provisions of the Laois County Development Plan 2017-2023, in particular Policy Trans7 and Policy Trans10 arising from the inevitable increase and intensification of turning movements onto and off the N78 national secondary road, that would arise from a grant of permission for the subject development.
- The initial Laois County Council planning case officers report identified the policy conflict arising in relation to the development proposal and compliance with the County Development Plan and recommended refusal of planning permission. Refers

to planning history and refusal of planning permission for three houses on the grounds of impacts on safety and free flow of traffic on the adjoining N78.

- Notes the refusal of outline permission under P.A.Reg.Ref.99/1050 and that permission was subsequently granted to B McElroy for a dwelling under P.A.Reg.Ref.04/1470. The current application will represent a second house granted on the landholding where permission was previously refused utilising the direct private laneway access to the N78, national road. Further development was also permitted, utilising a private laneway access to the N78 under P.A.Reg.Ref.08/70. This cumulatively represents a significant intensification of use of the direct private access to the N78 national road, at a location where a 100kph speed limit applies.
- The Council requested full family land holding maps to be submitted as part of the further information request to ascertain the availability of alternative sites, and none were identified. However, it is noted from P.A.Reg.Ref.04/1470 that the applicants family landholding did at the time appear to have alternative access to local road L-7872 approx. 150m to the south east of the junction with the unclassified laneway junction with the N78 which the subject of the current application is. In addition, the applicants family landholding submitted under P.A.Reg.Ref.04/1470 also appears to indicate an existing dwelling within the family ownership which is no longer included in the landholding maps submitted under the current application.
- Notes proposals to close an existing direct access point to the N78, national road to the northern end of the private laneway onto which the subject application initially gains access. However, the proposed works would not offset the safety issues arising from inevitable intensification of use of the private laneway.
- No exceptional reason has been put forward which would justify a departure from standard policy and road safety considerations in this instance. This is a significant issue having regard to the existing concentration of dwellings accessing the N78, national secondary road via the direct private lane access at this location.
- Considers that the proposed development, in conjunction with other development accessing the N78 at this location, by itself and by the precedent that a grant of permission would create would endanger public safety by reasons of traffic hazard due to the additional traffic, including turning movements, that would be generated

onto the national route N78 at a point where the speed limit of 100km/h applies, and would interfere with the free-flow of traffic on the road.

### Road Safety Considerations

- National roads account for less than 6% of the total length of public roads throughout the country, their significance in serving our economic and social transport needs is reflected in the fact that they carry approx. 45% of all road traffic in Ireland and over 50% of those travelling by public transport. There is a critical need to maintain the strategic function and to protect, maintain and ensure the safety of this finite and critical network resource.
- Restricting direct access and intensification of use of direct access to the high speed national road network can contribute to a reduction in collisions and fatalities.
- Official policy identifies that the creation of new accesses to and intensification of existing accesses to national roads give rise to the generation of additional turning movements that introduce additional safety risks to road users. From a road safety perspective authorities must guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50-60 kmh apply as part of the overall effort to reduce road fatalities and injuries.

### Planning History and Precedence

- TII does not consider that the reasons for refusal cited in the decision on planning application P.A.Reg.Ref.99/1050 relating to the intensification of direct access to the N78, national road, and impact on the safety and free-flow of traffic have been substantively addressed in the current application to warrant a grant of permission in this instance.
- The current proposed development in conjunction with other permitted development accessing the N78 at this location via an existing private laneway direct access, by itself and by the precedent that a grant of permission would create, would endanger public safety by reason of traffic hazard due to the additional traffic, including turning movements, that would be generated onto the national route N78 at a point where a speed limit of 100km/h applies, and would interfere with the free-flow of traffic on the road.

- TII is of the opinion that no exceptional reasons have been outlined by the applicant to justify such a significant departure from official policy and road safety considerations which a grant of permission would represent.

#### Protecting Public Investment

- Notes that it is a priority to ensure maintenance of the national road network in order to protect the value of previous investment. The TII also seeks to ensure that official national objectives are not undermined and that the anticipated benefits of the investment made in the national road network are not jeopardised. Notes National Strategic Outcome 2 of the National Planning Framework which includes the objective to maintain the strategic capacity and safety of the national roads network. It is also an investment priority of the National Development Plan 2018 2027, to ensure that the extensive transport networks which have been greatly enhanced over the last two decades are maintained to a high level to ensure quality levels of service, accessibility and connectivity to transport users.

## 6.2. Applicant Response

A first party response to the third party appeal was lodged by the applicants agent Marston Planning Consultancy. It was accompanied by a technical note and sightline drawing undertaken by Martin Peters and Associates, Consulting Engineers. The response can be summarised as follows;

#### Overview

- Submit that the grounds of appeal is based on a number of inaccuracies and misleading comments.
- The road onto which the applicants seek to gain access remains a public road, and is not, and never has been a 'private access lane'.
- The TII fail to acknowledge that the closure of the northern junction of the former N78 will have significant long term traffic safety benefits to both the subject proposal and the other two properties granted in 2004 and 2008 on the road. This will result in a net traffic safety gain that would not occur unless the subject proposal is granted planning permission.



- The decision of the P.A. was correct in this instance and should be upheld, as no traffic hazard will occur, and the proposal is fully in accordance with both the Spatial Planning and National Roads Guidelines for Planning Authorities and County Development Plan.
- Contend that it would be inappropriate for the Board to consider this application de novo as the sole grounds for the appeal is the impact on the N78.
- As part of the submission it has been demonstrated that the required sightlines under the County Council decision along the N78 can be achieved.

### Planning History

- The reason for refusal of outline planning permission for three houses on the landholding back in 1999 under P.A.Reg.Ref.99/1050 referred to the suburban design form and density of the proposal; concerns that it would be prejudicial to public health as a result of bore holes in the area; and concerns relating to the development amounting to a traffic hazard on grounds similar to that raised by TII under this appeal. The closure of the northern junction was not considered under the 1999 application, and no sightline drawings were submitted.
- However, subsequently two houses were granted and built with access onto the unclassified public road in 2004 under P.A.Reg.Ref.04/1470 on the overall landholding and in 2008 under P.A.Reg.Ref.08/70 to the east of the former N78.
- Note that the matter of the applicants housing need and rural housing policy have not been raised by the appellant.
- Notes that the former National Roads Authority (NRA) did not make an observation or appeal the decisions relating to the 2004 and 2008 applications that sought access onto the former road and access off it onto the new N78.

### National Policy

- The interpretation of the Spatial Planning and National Roads Guidelines for Planning Authorities (DoELG,2012) is a key consideration to the determination of this appeal. The proposal does not seek to gain direct access onto the N78 and therefore the primary function of the policy under the above cited Guidelines does not apply.

- Contend that the primacy of the policy is to improve traffic safety, which the application achieves. Notes under section 2.6 of the Guidelines allows for a less restrictive approach to development on National Secondary Roads such as this.
- Assert that the former N78 roadway does not form what can be readily defined as an access point as outlined under the above Guidelines, as it remains an unclassified road and should not be viewed as forming an access point to an individual house or group of houses.
- All parties agree that the northern access onto the N78 provides sightlines that are heavily restricted and forms an inadequate access point that amounts to a traffic hazard. TII have failed to acknowledge that the proposed access from the south will result in a planning and transportation gain in terms of traffic safety on the N78, and therefore fully in accordance with the principles of the National Guidelines.
- Submit that as the applicant currently resides within the parents property located on the former N78 roadway that there will be no change in the level of traffic and trips arising from the day to day activities than is currently undertaken, and there will be no additional turning movements generated by this proposal.
- Submit that the proposed development will not give rise to an undesirable precedent along the N78 within the County.

#### Local Development Plan Policy

- The TII are incorrect to assert that the proposal would be contrary to both Policy Trans 7 and Policy Trans 10 of the County Development Plan, as the proposed development will reduce the potential for a traffic hazard and will achieve a traffic safety gain on the N78.
- Notes that the preceding body the NRA did not comment on the 2004 and 2009 applications which were granted.
- Confirm that the landholding shown as part of the current application is the current family's landholding. There is therefore, no potential access point onto the L-7872.
- The Guidelines and its content is a statutory requirement for the Board to consider in making its decision under section 34 of the Planning and Development

Act (as amended) and cites four key considerations in enabling a relaxation of standards as set out under section 2.6 of the Guidelines.

- The TII fails to recognise the significant traffic safety gains for the proposed development and the other two houses on the former N78 roadway as a result of the closure of the northern access point.

#### Road Safety

- Submit that the proposed development will not result in a traffic hazard. The removal of a substandard junction accessing onto the N78 that is currently used by two houses, and the use of a junction that achieves the required sightlines by an additional house will result in a net traffic safety gain.

#### Planning History

- The TII interpretation of the traffic safety implications of the current proposal is incorrect.
- There are clear and exceptional circumstances and a highly reasoned justification why the proposal is acceptable from a proper planning and sustainable development perspective.

#### Protecting Public Investment

- The removal of a sub-standard access point will positively contribute to the strategic function of the national road network.

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

- 6.3.1. The planning authority confirmed its decision and refers to the map of family landholding submitted. It is noted that all the lands are in the immediate vicinity of the appeal site, and that no alternative access is available, other than straight onto the N78 National Secondary Route which would be completely unacceptable on grounds of traffic safety.
- 6.3.2. It is also noted that details of achievable sight distances at the south-eastern junction, where the unclassified laneway meets the N78 National Secondary Route indicate sightlines of 215m in each direction. The north-western junction where sight

distances are seriously deficient will be closed, and consents to this course of action have been submitted by two other households on the unclassified laneway.

- 6.3.3. The planning authority also note the nature, particular circumstances of the applicant and location and request that the Board uphold the decision of the planning authority.

#### 6.4. **Observations**

None received.

#### 6.5. **Further Responses**

A further response to the first party response to the third party appeal was lodged by the TII. The response can be summarised as follows;

##### Strategic Road Network and Official Policy

- No evidence is provided to support the applicants submission that the access road onto which the subject site gains access is a public road and is not and never has been a private access lane.
- The requirement to close the northern part of the access lane where it has a junction with the N78 included as a condition of the permission granted, also implies that the access lane is private. Procedures to close a public road are included in Section 12 of the Roads Act, 1993, as amended, and would be beyond the remit of the applicant to implement if the road was a public road. The access lane appears therefore, to be a private lane and not a public road, would welcome clarification on procedures to be applied to close the access to the N78, national road, included in condition no.7(g) of the permission granted.
- The access lane onto which the subject site accesses is a private road and therefore, the provisions of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines pertain.
- Refer to Section 3.3.4 of the DoECLG Sustainable Rural Housing Guidelines (2005) which includes the requirement that development control policy should, in the first instance, seek to channel traffic from new development onto existing local roads

and in this way use established access points to gain entry onto national roads. The current application fails to achieve this provision.

#### Intensification

- Regardless of the housing circumstances of the applicant the proposed development will inevitably bring about additional vehicular movements resulting in intensification of access onto and off the N78, national secondary road, and as such is considered at variance with the provisions of official policy.

#### Exceptional Circumstances

- Notes the provisions of Section 2.6 of the DoECLG Spatial Planning and National Roads Guidelines which provides a mechanism whereby a less restrictive approach may be applied to the control of development accessing national secondary roads. Contends that the guidelines require that any such provisions be plan lead and addressed in the adopted Development Plan. Submits that it is not appropriate to consider proposals on case by case basis through development management. The Laois County Development Plan does not include agreed exceptions where a less restrictive approach to the control of development accessing national roads might apply in accordance with the provisions of the DoECLG Guidelines.
- No exceptional reason has been put forward which would justify a departure from standard policy and road safety considerations in this instance.

#### Planning History

- The TII has no record of consultation from Laois County Council on the previous applications.

## 7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development
- Access and Road Safety
- Appropriate Assessment

## 7.1. Principle of Development

- 7.1.1. There are two main policy aspects to this appeal – the policy aspects concerning compliance with the rural housing policy, and specific policy concerns regarding access onto the National Secondary Road N78.

### *Compliance with Rural Housing Policy*

- 7.1.2. The current settlement strategy for Co. Laois is clearly set out in the County Development Plan (2017-2023) and summarised in section 5.1 above.
- 7.1.3. The Core Strategy (Figure 5) for the county as outlined in Section 2.1 of the county development plan, identifies the appeal site as being located within 'Zone D'. This zone is characterised by having a '*very definite rural and natural amenity with mixed farming and forested uplands*'.
- 7.1.4. The Rural Area Designations (Figure 7) of the plan indicates that the appeal site is located within a 'structurally weak area'. Section 2.6.1 of the county development plan seeks to accommodate residential development in structurally weak areas, subject to meeting normal planning and environmental criteria.
- 7.1.5. The applicants submitted by way of further information a map of the family landholding which is located on either side of the N78. In addition, I note from the applicants response to the third party appeal that they currently reside within the parents property located on the former N78 roadway to the north, which was granted planning permission under P.A.Reg.Ref.04/1478.
- 7.1.6. I would note however, that the applicant has not submitted any additional information by way of a supplementary application form or documentary evidence to support this assertion.
- 7.1.7. There are no details on file in relation to a birth certificate, school attendance record, utility bill etc. to evidence where the applicants currently reside, or any current connections with the rural area apart from the original family home and landholding.
- 7.1.8. While also noting the size of the family landholding, it is also unclear, if the applicants have a functional need to reside in the area or economic connection to the locality. It is therefore, unclear if the applicant has a genuine local rural housing need, and or whether the proposed development constitutes an urban generated housing need.

- 7.1.9. Notwithstanding the applicants stated family ties, I am not satisfied on the basis of the information on file that the applicants have submitted sufficient evidence to demonstrate compliance with the Rural Housing Policy as set out in the current Development Plan. I recommend, therefore, that planning permission be refused on this basis.
- 7.1.10. Clear policy is set out at both a national and local level regarding rural housing need. The ‘Sustainable Rural Housing Guidelines for Planning Authorities’ actively seeks to direct pressure for new residential development to the nearby established settlements. National Policy Objective 19 of the National Planning Framework (NPF) also refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.1.11. Having regard to the location of the site within a ‘Stronger Rural Area’ as identified in the Sustainable Rural Housing Guidelines, the proposed development must also be assessed under national planning policy guidance as set out in National Policy Objective 19 of the National Planning Framework (NPF) and the Sustainable Rural Housing Guidelines.
- 7.1.12. I recommend, therefore, that planning permission be refused on this basis. I would draw the Boards attention to the fact that this is a new issue, and as such it may be appropriate to recirculate to the applicant.

*Access onto a National Secondary Road*

- 7.1.1. The third party appellant has raised concern in relation to the fact that the proposed development would be inconsistent with the provisions of the Laois County Development Plan 2017-2023, and in particular Policy Trans7 and Policy Trans10 arising from the inevitable increase and intensification of turning movements onto and off the N78 national secondary road.
- 7.1.2. The proposed development relies on an access from a road which forms a link with the National Secondary Road N78. This road was formerly part of the N78, and following the realignment of the N78, resulted in this section of road being downgraded. The road currently serves two other houses.

- 7.1.3. The status of this road is the subject of dispute in this appeal. The applicant refers to it as a 'public road', the planning authority refer to it as an 'unclassified road', while the appellant describes it as a 'private access lane'.
- 7.1.4. Regardless of the status/classification of this 500m long section of road, the proposed development relies on the creation of a new vehicular entrance onto a roadway, which forms two junctions with the N78 National Secondary Road as described in section 1.0 above.
- 7.1.5. The applicant argues that as they already reside in the family home to the north of the appeal site, that the proposed development would not give rise to an intensification of use of turning movements onto and off the N78.
- 7.1.6. The appellants strongly dispute this assertion and consider that the proposed development in conjunction with the other two houses along the roadway, would give rise to an intensification of use of turning movements onto and off the N78.
- 7.1.7. It is also noted by the TII that the two previous planning applications for both of these houses were not referred by the planning authority to the NRA (now the TII) for comment at that time. I would also note as already outlined above that the applicants have not submitted sufficient evidence to demonstrate that they currently reside in the family home or have indicated the nature of their employment.
- 7.1.8. The fact remains that the proposed vehicular access, to serve the proposed development although not directly onto the National Secondary Road, relies on an access/egress to the N78.
- 7.1.9. I consider that the construction of a single dwelling, when taken in conjunction with the other two dwellings along this section of road, would result in a significant intensification of turning movements at the junction of this road and the National Secondary Road N78.
- 7.1.10. I am satisfied therefore, that the proposed development would be contrary to Development Plan policy and in particular to Policy Trans7 and Policy Trans10.
- 7.1.11. The appellants in this case contend that the proposed development would be contrary to official policy as set out in the DoECLG Spatial Planning and National Roads Guidelines, and specifically section 2.6 which relates to exceptional circumstances. The guidelines provide a mechanism whereby a less restrictive



approach may be applied to the control of development accessing national secondary roads in the case of exceptional circumstances. The appellants also note that no exceptional reason has been put forward by the applicant which would justify a departure from standard policy and road safety considerations.

- 7.1.12. I have considered the circumstances of the applicants, including the overall family landholding, that the only other alternative is to provide a direct access from the N78, the assertion that they currently reside in the family home, and the proposal to close the access point to the north.
- 7.1.13. I note the absence of any documentary evidence to demonstrate the applicants current address and nature of employment. I also note the family landholding which is located either side of the N78, and that a direct access onto the N78 would be totally unacceptable on traffic safety grounds.
- 7.1.14. I note that Condition no 7(g) of the notification of the decision to grant planning permission also required that the junction to the north west with the N78 be permanently closed off.
- 7.1.15. While I accept that the proposed closure of the existing northern access point to the north would result in a net traffic safety gain, I am unclear as to how this would be implemented in practice, notwithstanding the letters of consent submitted by the owners of the two other houses along this road.
- 7.1.16. On balance, therefore, I am not satisfied that exceptional circumstances apply in this case, to justify a relaxation of standards as set out under section 2.6 of the Guidelines. As already outlined above the proposed development will inevitably result in an intensification of use of the existing access/egress onto a national secondary road as a result of the grant of permission.
- 7.1.17. I recommend, therefore, that planning permission should be refused on the basis of noncompliance with section 2.6 the DoECLG Spatial Planning and National Roads Guidelines 2012.

#### *Summary*

- 7.1.18. I am satisfied, that the applicant has not demonstrated compliance with Objective 19 of the National Planning Framework 2018, and the guidance set out in the Sustainable Rural Housing Guidelines 2005 and would be contrary to national policy

as set out in the Spatial Planning and National Roads Guidelines 2012, and that permission should be refused on this basis.

## **7.2. Road Safety**

- 7.2.1. The appeal site has a road frontage along a section of road of approximately 500m in length. It is proposed to create a new splayed vehicular entrance from this road to serve the proposed dwelling. The applicant has indicated sightlines of 90m in both directions, can be provided, and I can confirm from my site visit that this is the case.
- 7.2.2. The applicant notes that works were carried out by the planning authority which realigned the N78. This resulted in this stretch of then unclassified road, located roughly parallel to and to the east of the N78. This road therefore, forms a junction along the National Secondary Road N78 to the north west and to the south east where a speed limit of 100kph applies.
- 7.2.3. The Roads section of the planning authority had concerns in relation to sight distances at the junctions with the N78 and sought further information from the applicant. The planning authority were satisfied that adequate sight distances of 215m could be achieved at the junction with the N78 to the south east and required by way of Condition no. 7(c) that specific sightlines be achieved.
- 7.2.4. The TII raised concerns in submissions to the planning authority that the proposed development would adversely affect the operation and safety of the national road network. This position is reiterated in the current appeal.
- 7.2.5. From my site visit I can confirm that inadequate sightlines exist on the north western junction with the N78. And this is not disputed by any of the parties. I can also confirm that adequate sightlines can be achieved on the south eastern junction with the N78.
- 7.2.6. Notwithstanding, on the basis that the proposed development will result in an intensification of the use of a junction onto the N78 where a speed limit of 100kph applies, I concur with the appellant that the proposed development will adversely affect the operation and safety of the national secondary road.

7.2.7. I am satisfied therefore, that the proposed development which relies on an access/egress onto the N78 is unacceptable, and will give rise to a traffic hazard, and that traffic safety is a basis for a refusal of permission in this instance.

### 7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, the intervening distances and to the lack of a hydrological connections, it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

8.1. I recommend that permission be **refused** for the following reasons and considerations.

## 9.0 **Reasons and Considerations**

1. The subject site is located in a rural area which is identified as a 'Structurally Weak Area, as set out in the Laois County Development Plan 2017-2023, and as being within a 'Stronger Rural Area' in the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government. On the basis of the documentation submitted in support of the planning application and the appeal, in particular the proximity of the site to nearby established settlements, the Board is not satisfied, notwithstanding the provisions of the Development Plan, that the applicant has demonstrated a rural generated housing need for a dwelling at this rural location contrary to National Policy Objective 19 of the National Planning Framework 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development, which would result in the intensification of use of an access onto the National Secondary Road N78 at a point where a speed limit of 100 km/h applies, would be contrary to section 2.6 of the 'Spatial Planning and National Roads Guidelines for Planning Authorities' 2012 issued by the Department of the Environment, Heritage and Local Government. The proposed development would endanger public safety by reason of traffic hazard and the additional and conflicting traffic movements generated by the development would interfere with the safety and free flow of traffic on the public road.

---

Susan McHugh  
Planning Inspectorate

Fri 29<sup>th</sup> November 2019