



An
Bord
Pleanála

Inspector's Report

ABP-307588-20

Development	Dwelling house, closure of existing gated entrance (Protected Structure 022-033) and opening of new road entrance and all associated site works
Location	Lackan, Glasson, Athlone, County Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	207005
Applicant(s)	Shirley Delahunt and John Flannigan.
Type of Application	Permission.
Planning Authority Decision	To grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Transport Infrastructure Ireland (TII); Aidan Flanagan.
Observer(s)	None.
Date of Site Inspection	25 th November 2020
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The c.0.7ha appeal site is situated c.9km north east of Athlone town and c.3km north east of the village of Glassan in the townland of Lackan, County Westmeath. The site lies on the western side of the N55 (Athlone to Ballymahon section). It comprises part of a larger agricultural field, which is elevated above the public road, and a linear strip along its roadside boundary. To the north west of the site is an existing single storey residential property and to the west of this building a collection of agricultural structures (these include an outbuilding which is a Protected Structure, RPS:022-042 (NIAH Reg. No. 15402230).
- 1.2. Access to the site is via an existing residential entrance, to the south of the site, and an agricultural entrance to the west of this (see photographs). The residential entrance comprises a pair of cast iron gate posts, decorative gates and associated curved wing walls. The gates are Protected Structures (RPS:022-033, NIAH Reg. No. 15402219) and originally served Lackan Lodge. This property, which was situated in the area of the existing structures on the site, is no longer in existence.
- 1.3. Approximately 200m to the north east of the appeal site is a detached two storey dwelling (appellant's property). To the east of the site is the derelict Auburge House (NIAH Reg. No. 15402227). Lackan Lodge and Auburge House are associated with designed landscapes in OSI's Historic 6" map series and the Buildings of Ireland Garden Survey (see attachments) . The appeal site lies within a larger land holding that adjoins local road, L5464, to the south west of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of further information submitted in April 2020, comprises a part two storey, part single storey dwelling (255.4sqm) and detached domestic garage (24.8sqm) located to the north of the appeal site. Water supply is proposed via a new connection to a private well. Wastewater will be discharged via a conventional septic tank system to the east of the dwelling. Surface water will be directed to a soakpit.
- 2.2. The development includes closing up of the existing gates which currently provide access to the site and the formation of a new access to the site from the N55,

c.150m to the south west of the existing residential entrance and in the vicinity of an existing agricultural gate. Works will include:

- Provision of a planted earth berm on the inside of the Protected Structure (RPS 022-033) (1m in height),
- Part removal and part setting back of the stone wall to the south of the Protected Structure to achieve 150m sightlines in each direction at the new entrance to the site,
- Setting back of the existing fence alongside the road, with hedgerow planting to the rear of the fence and sightline.

2.3. Correspondence from the applicant states that they will enter a legal agreement with TII/WCC binding them into any final decision made in relation to the proposed route of the N55/improvement works (current preferred route and subject to standard CPO terms). The planning application is accompanied by the following reports:

- Local Needs Form.
- Site Suitability Assessment.
- Design Statement (see response to FI).
- Landscaping plans.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 19th June 2020, the planning authority decided to grant permission for the proposed development after direction from the Director of Service which considered that:

- The option of locating the proposed development on the local road would result in an long and unnecessary road through the lands to link the proposed house to the farm buildings and applicant's parents' house, with greater impact on the landscape at this location.
- The applicant is farming the land and requires a house for himself and his family.
- The permission will result in a new access on the N55 and it will result in the closure of two substandard access points and the preservation of a historic, if

dangerous, access point. As such there is an improvement in public safety as the improved access outweighs the additional turning movements, which will be negligible on the basis that the applicant is using the existing access points on an ongoing basis to access his farmland.

3.1.2. The development is subject to 13 no. conditions. Most are standard. I draw attention to the following:

- No. 2 – Requires revised plans providing for the closure of the existing accesses, preservation of the quality of the old gate, setback and replacement of the stonewall adjacent to the gate.
- No. 4 – Requires a landscaping scheme for the development.
- No. 7 – Occupancy condition.
- No. 8 – Requires provision of 3m x 150m sightlines, details the design of these and permanent closure of the existing entrance.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 5th March 2020 – Refers to the site and surrounding area, location of the development in relation to Protected Structures and landscaped gardens, policy context for the development and submissions made. It recommends further information in respect of homes occupied by the applicant, location of other farming enterprise, need for second dwelling on lands, details of means to close existing gated entrance, design statement indicating how the development has had regard to location in landscaped grounds and historical structures, location of development on lands included in route option for road improvement scheme, elevated nature of development, removal of wall and impact on protected structure and intensification of use. The report recommends that the applicant consider an alternative development/access arrangement that does not intensify an entrance onto the national road, does not interfere with historic structures and does no impact on the planned landscape and visual amenity of the area or future road layout.

- 21st May 2020 – This report refers to the FI submitted but considers that the matters have not been adequately addressed. It recommends refusing permission on the grounds that it:
 - Is located in an area being considered as a route option for a national road improvement scheme,
 - Would intensify the use of an existing access onto the N55,
 - Requires the removal of a stone wall which would adversely impact on the setting of a Protected Structure and the character of a planned landscape and,
 - By virtue of the elevated siting and its prominent position in the landscape, would have a detrimental effect on the landscape and the designed landscape setting.

3.2.2. Other Technical Reports

- Engineering (30th April 2020 – No objections subject to conditions.

3.3. Prescribed Bodies

- TII (6th February 2020) – Development is located in an area that is under consideration as a route option for a national road improvement scheme. Planning application is therefore premature. A grant of permission would be at variance with section 2.9 of DoECLG Spatial Planning and National Roads Guidelines. Subsequent report (7th May 2020) maintains that the development will be contrary to the above Guidelines and states that a second dwelling on the site will increase turning movements onto/off the N55 regardless of the housing circumstances of the applicant and would be contrary to section 2.5 of the above Guidelines and Development Plan policy P-NR5.
- National Roads Office (13th February 2020) – No objection to development but recommend that the development is set back outside the current planning boundary, having regard to the current design for the N55 Athlone to Ballymahon Scheme (see drawing attached to comments).

3.4. Third Party Observations

3.4.1. There is one third party observation on file. It raises the following:

- New entrance onto N55 National Secondary route would contradict national and local planning policy. Landholding adjoins local road L5464 and should be accessed from this alternative road.
- The development is located in an area identified as a Route Option for the N55 Road Improvement Scheme and would conflict with national and local planning policy.
- Alternative lands available on farm with direct access onto tertiary road, L5454 (Folio WH7843 – see attachments).
- Development is located on a prominent site and would be overly prominent in the landscape.
- Proposed access is convoluted in design. Sightlines for a new entrance onto a National Secondary road are sub-standard.

4.0 Planning History

- None (relevant to the appeal).

5.0 Policy Context

5.1. National

- National Planning Framework 2040.
- Spatial Planning and National Roads, Guidelines for Planning Authorities (DoECLG, 2012).
- Regional Spatial and Economic Strategy 2020-2032. Eastern and Midland Regional Assembly.

5.2. County Westmeath Development Plan 2014 to 2020

5.2.1. Section 5.22 of the current Westmeath County Development Plan 2014-2020 affords protection to Protected Structures under policies P-BH2 and PBH3, including to

ensure that any development affecting a Protected Structure is sensitively sited and designed. Similarly, under Policy P-PGD2 development which would adversely affect the character of gardens and demesnes of special historic interest will be resisted. Transportation policies include to restrict access to national roads in order to protect the substantial investment made in them (policies P-NR1 and NR2) and to support regional linkages by the strengthening of the N55 (objective O-NR3). In section 14.4. of the Plan, sightlines of 2.4x 230m sightlines are set out for vehicular entrances onto national roads.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site lies c.4.5km to the east of Lough Ree, a proposed Natural Heritage Area and Special Area of Conservation (shared site code 000440) and a Special Protection Area (site code 004064).

5.4. EIA Screening

- 5.4.1. The proposed development is of a type that constitutes an EIA project (involving construction works) and is a sub-threshold development of Class 10(b)(i), Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), construction of dwelling units. However, the development is well below the threshold set out in the Schedule, is a type of development which is not likely to give rise to the use of significant natural resources or the production of wastes, pollution or environmental nuisance and is proposed on agricultural land which is abundant in the area. Consequently, there is, therefore, no real likelihood of significant effects on the environment to warrant environmental impact assessment.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. There are two third party appellants, who raise the following issues:
- Development includes a new entrance onto the N55 where the 80kph speed limit applies and conflicts with official policy (section 2.5, Spatial Planning and National Roads Guidelines for Planning Authorities) and local Policies P-NR1 and

P-NR5 (WCDP). The development is located along a high speed section which is sub-standard in alignment, where safety is compromised due to the number of junctions and private accesses and for which a scheme of improvement is being developed (Route Selection Stage). The development will improve the existing sightlines, but this is insufficient to offset the increased safety concerns that would arise from an additional house on the landholding and the intensification of the access to the N55.

- The development conflicts with National Strategic Outcome 2 of the National Planning Framework and Regional Planning Policies to maintain the strategic capacity and safety of the national roads network.
- The need to accommodate and sustain rural communities is acknowledged. The County Development Plan does not include agreed exceptions where a less restrictive approach to the control of development can be applied (section 2.6, Guidelines).
- There is alternative access to the landholding from L5454 and additional lands owned by the applicant on this tertiary road (folio WH 7843, c.60ha).
- Development conflicts with Policy P-NR2 and Objective O-NR3 of the Westmeath County Development Plan 2014-2020 as it is located in the corridor for the realignment of the N55. National Roads Office advised the planning authority that it would be preferable to move the entrance to the site outside of the footprint of the proposed works. The applicant addressed this matter in response to FI but it is unclear that the conditions of the permission safeguard the national road scheme. It is also unclear if the access sightlines reflect the changed circumstances that will result from improvement alignment of the N55 (i.e. higher speeds).
- Inappropriate precedent that the development would set.
- Of the three entrances to the landholding from the N55, one has not been used for over 40 years, one has been opened in recent years without planning permission and the other is the main entrance to the residence on the site (protected structure).

- Additional traffic movements to be generated by family home and by applicant accessing lands rented farmed elsewhere (including slatted shed for 80-100 cows on L5454). Questions level of farming activity stated by applicant given in full time employment.
- Convoluted new access to dwelling. Prominent location of site and visibility of dwelling. The hedgerows referred to by applicant for screening are owned by the observer and will not adequately screen the development.
- Impact on privacy, and over shadowing, of adjoining property, Goldsmith Country House (landmark dwelling at entrance to Auburn House).
- Impact of development on Protected Structure. Inappropriate works to close the entrance (earth bank), impact on setting and absence of measures to maintain the gates.
- Construction of sheds in proximity to Protected Structures within the site without planning permission.

6.2. Applicant Response

- 6.2.1. The applicant responds to both of the appeals made. This includes a Traffic Assessment. In the interest of brevity, I refer to the submissions made in my assessment below.

6.3. Planning Authority Response

- No response.

6.4. Observations/Further Responses

- 6.4.1. The third party appellant comments on the matters raised in the TII appeal. No new matters are raised.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant planning policy and guidance, I consider that the main issues for this appeal are:

- Impact on national road and risk of traffic hazard.
- Impact on visual amenity and landscape.
- Impact on residential amenity.

7.1.1. One of the appellants refers to the unauthorised construction of sheds in proximity to a Protected Structure. This matter lies outside the scope of this appeal and would be addressed by the planning authority.

7.2. Impact on national road and risk of traffic hazard

7.3. Additional Access Point. The National Planning Framework, under National Strategic Outcome 2, seeks to enhance regional accessibility in the country by measures which include maintaining the strategic capacity and safety of the national roads network. Similarly, strategic objective no. 15 of the RSES for the Eastern and Midland Region seeks to protect and enhance the regional accessibility. Section 8.4 of the document recognises the importance of maintaining, improving and protecting the strategic function of key transport corridors.

7.4. Chapter 2 of the government's guidelines on Spatial Planning and National Roads deals with development planning. Section 2.5 deals with development plan policy on access to national roads and states, for land adjoining national roads to which speed limits greater than 60kph apply, *'the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads...This provision applies to all categories of development, including individual houses in rural areas, regardless of housing circumstances of the applicant'*.

7.5. Section 2.6 considers exceptional circumstances and states that notwithstanding Section 2.5, planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted with and taken on

board the advice of the NRA (now TII) and having followed the approach set out in the guidelines for developments of national and regional strategic importance and lightly trafficked sections of national secondary routes.

- 7.6. Policies of the Westmeath County Development Plan reflect the national and regional policy guidelines. Policy P-NR1 states that the planning authority will *'restrict access to national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity and safety and to prevent the premature obsolescence of the network'*.
- 7.7. The appeal site lies on a busy stretch of the N55 where the 80 kph speed limit applies, where observed speeds were high and where the alignment of the national road is poor vertically and horizontally (see photographs). The site is not in a location which is identified in the County Development Plan as an area where exceptional circumstances apply.
- 7.8. Access to the site is proposed from a new access onto the national road, replacing two substandard entrances. It will be situated in the location of an existing little used agricultural field entrance, and will provide sightlines of 150m sightlines in each direction. I would accept, as argued by the applicant, that there would be no net increase in accesses to the site and that the proposed sightlines would be an improvement on existing arrangements for access to the site. However, national roads policy precludes the creation of new access points onto national roads from new development or the generation of increased traffic from existing accesses.
- 7.9. The applicant argues that the proposed development will result in a net decrease in trips to and from the site (Table 1 response to TII appeal) i.e. a net reduction of 5 trips per week. Whilst I would accept that the number of trips by the applicant to and from his residence to the farm/landholding would reduce, the Table 1 does not set out the number of trips made to outlying lands. The applicant argues that these will not be affected as the location of equipment on the farm adjoining the appeal site is required for these trips. However, I would be concerned that there is a lack of clarity and transparency in this argument (e.g. stock checking).
- 7.10. With regard to family trips, the applicant estimates that the number of non-farm trips to be between 1 and 3/day. This would be consistent with the TRICS data, referred to in the Traffic Assessment (response to TII appeal) for trips arising from residential

dwellings, which refer to c.2.5 arrivals and c.2.5 departures a day. However, in a rural setting I would expect these average figures to be exceeded. Furthermore, I would be concerned that the introduction of a second residential use to the site introduces an inherent risk of intensification of use arising from either of the residential dwellings on the site currently or into the future.

- 7.11. Traffic safety. As stated previously, the applicant proposes 150m sightlines at the entrance to the development. The applicant's Traffic Assessment (response to TII appeal) states that the sightline meets with technical standards in terms of design and geometry derived from TII design standards and could be further assessed with a Stage 1/2 Road Safety Audit, as per a proposed dwelling on the N76 granted by the Board under ABP-301403-18 (attached). As stated, I would accept that the proposals to close three existing sub-standard farm/residential entrances and replace them with one single entrance with improved sightlines would be an improvement on current arrangements. However, the proposed access would nonetheless provide sub-standard sightlines for a National road (150m compared to 230) at a location where traffic speeds are high, vertical and horizontal alignment is poor with an inherent greater risk of traffic accident.
- 7.12. N55 Realignment. The proposed development is situated on a location on the N55 which is to be realigned, with the design of the scheme at Emerging Preferred Route Stage (see attachments). As stated by the applicant in response to the appeal, the upgrading of the section of the route alongside the appeal site will be required to integrate with the existing accesses to the landholding and Protected Structure. Further, as the project remains at an early stage, I do not consider that the development would hinder the improvement of the N55. In this regard I note that the National Roads office raised no objection in principle to the development but recommended it be set back outside the footprint of the proposed works to the N55. The applicant states that they would be willing to do this and submit a solicitor's letter to this effect.
- 7.13. Alternative Access. The applicant's landholding adjoins local road L5464 to the south of the appeal site, c.380m to the south west of the location of the proposed dwelling. The applicant argues that an alternative access off the local road to the west of the landholding would be excessive in terms of cost, would subdivide the landholding, result in a net loss of productive farm land, would be visually scarring

and, in order to comply with separation distances from the junction with the N55, would be located opposite an existing dwelling and impact on its residential amenity. It is also stated that the minor road is inadequate to accommodate the size of agricultural vehicles.

7.14. I would accept that if the applicant were to access the appeal site from this local road, it would require the construction of a substantial length of internal access road and would have the potential to subdivide the farming enterprise. However, there is a loss of agricultural land associated with the proposed arrangements (albeit smaller). Further, having regard to the very clear policy context which seeks to protect the strategic function of the national road network, and to my comments in respect of the risk of intensification of use of the site, traffic hazard and landscape effects of the proposed development, I consider that other options for the location of the development within the landholding should be explored and that these would provide a better location for the proposed development, in the short and long term (with the realignment of the N55 traffic speeds on this section of the road are likely to increase). I would accept that there would be landscape effects associated with a new access road, however this could be addressed by landscaping and the appropriate siting of the dwelling (e.g. sited on the southern side of the existing cluster farm buildings). I would not accept that this local road is unsuitable for agricultural vehicles, as stated by the applicant in response to the appeal, as it is typical of a rural road and provides access to existing agricultural land on both sides of the road.

7.15. Alternative landholding. The appellant refers to the applicant's ownership of land elsewhere along the L5464 and the possibility of locating a family home on these lands. Whilst this may be a possible option for the client, the application is brought forward due to its site specific location to provide proximity to farm buildings and to elderly parents. I consider, therefore, that it should be assessed on its merits.

7.16. **Impact on visual amenity and landscape.**

7.16.1. The appeal site lies to the north of the applicant's landholding on a locally elevated site. The proposed dwelling is in part two storey and has a maximum height of 7.86m. It will be set back from the N55, in part against a backdrop of mature trees,

however, due to its scale and bulk it will be visible in views from the N55. The appellant argues that the applicant relies on screening from a roadside field boundary that is not in his ownership. Whilst I would acknowledge this point (as does the applicant), it is evident from the plans on file, that the applicant proposes a new indigenous hedgerow to be planted alongside the northern boundary of the site to be maintained at 5-7m (Drawing no. 202A, RFI Site Plan). I would accept that this would, in the longer term, provide visual screening of the development from the N55. However, in the short term the dwelling would remain visible and prominent when viewed from the N55 and travelling south.

7.16.2. The appeal site is located in a landscape that is listed in the NIAH's Survey of Historic Gardens and Designed Landscapes, Lackan Lodge. From historic mapping (see attachments), it would appear that access to Lackan Lodge was originally from the south west, in the approximate location of the proposed access to the site, with the drive sweeping from the south west up to the house. More recently, the main drive appears to have been moved to its current position but again sweeping, to the north towards the location of the original dwelling.

7.16.3. The applicant's Design Statement (see response to FI) states that the proposed dwelling is located outside of any formal gardens, will retain trees likely to have formed part of the original planting and landscaping of the Lackan Lodge demesne and that the design of the dwelling will not detract from the setting or character of nearby protected structures.

7.16.4. In contrast, I would consider that the proposed development is situated within the confines of the landscaped gardens associated with Lackan Lodge, with the location of the proposed dwelling having little regard for the structure of the designed garden (open structure with informal planting). Whilst I would accept that the location of the proposed access to the site is near the location of the original entrance to the demesne, there is little attempt to refer to the associated route of the original access road in the design of the development. As designed, I consider that the proposed development would significantly detract from the remaining structure and form of the designed landscape, contrary to policies of the County Development Plan which resist development that would lead to the loss or, or cause harm to the character, principle components of or the setting of gardens of special historic interest (Policy P-PD2). As the appellant has a larger landholding at the location of the proposed

development, I consider that alternative sites should be explored which would better integrate the proposed development with the historic landscape.

7.17. Impact of development on Protected Structure.

7.17.1. The applicant proposes stopping up the existing entrance to appeal site by providing a 1m grass bank to the rear of the gated entrance. Whilst this measure would prevent vehicular access through the gates, it would detract from their setting and would do little to safeguard the structure of the iron gates themselves in the longer term. However, the applicant states that they do, and will continue to, maintain the gates and would be happy to comply with any condition that required this.

7.18. Impact on residential amenity.

7.18.1. The proposed dwelling is c.250m of Goldsmith Country House (the appellant's property) i.e. it is substantially removed from it. The development will also be visually separated from it by existing hedgerows and in the longer term by a native hedgerow to be maintained at 5-7m to the north and east of the proposed dwelling. Consequently, impacts by way of overshadowing and privacy would be negligible.

8.0 Appropriate Assessment

8.1.1. The appeal site lies c.4.5km to the east of Lough Ree, a Special Area of Conservation (site code 000440) and a Special Protection Area (site code 004064). The appeal site is in the Breensford WFD sub-catchment (Breensford_SC_010) with surface and ground water discharging into Lough Ree.

Effluent arising from the appeal site will be directed into a septic tank and associated percolation area. Surface water will be directed into a soakpit. Having regard to these design details and the capacity of soils to treat effluent, as set out in the Site Characterisation Form, adverse impacts on groundwater are unlikely to arise. Further, in the absence of such details, given the distance of the site from Lough Ree and the dilution and attenuation of soils/underground pathways, it remains unlikely that any discharges to ground will give rise to any significant effects on water quality in Lough Ree. It is considered, therefore, that no Appropriate Assessment issues arise, and that 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.

9.0 Recommendation

- 9.1.1. I recommend that permission for the proposed development be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the provisions of the Spatial Planning and National Road Guidelines for Planning Authorities (DoECLG 2012), policies of the Westmeath County Development Plan 2014-2020 in respect of historic parks and gardens, the location of development on a landholding which has direct access onto a minor road and within the grounds of a designed garden, it is considered that the proposed development, would:

- i. Result in the intensification of use of an access onto the National Primary Road N55 at a point where a speed limit of 80km/h applies, would endanger public safety by reason of traffic hazard and that the additional and conflicting traffic movements generated by the development would interfere with the safety and free flow of traffic on the public road, and
- ii. Lead to the loss of character of a designed garden.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

2nd December 2020