



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308811-20

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<b>Development</b>	Construction of a storey and a half dwelling with detached garage.
<b>Location</b>	Moatfarrell , Edgeworthstown , Co Longford
<b>Planning Authority</b>	Longford County Council
<b>Planning Authority Reg. Ref.</b>	20/166
<b>Applicant(s)</b>	Ciaran Conlon.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ciaran Conlon.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	28 <sup>th</sup> April 2021
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The c.4.3ha appeal site is situated c.3km to the north west of Edgeworthstown, in the townland of Moatfarrell, County Longford. The N4 runs east west c.2.4km to the south of the site between Edgeworthstown and Longford. The site lies to the west of the county road, L-1086, as the road turns to the east.
- 1.2. The rectangular site comprises two adjoining agricultural fields in a wider landholding. The fields are bound by hedgerows. A small collection of agricultural structures lies immediately south of the site, within the overall landholding (from OSi historic mapping and aerial photographs it appears that these structures have been erected since 2012). Access to the appeal site and the agricultural structures, is by a narrow lane from the public road. This lane runs along the southern boundary of the site and turns north across the site. A small stream flows in a south east north west direction alongside the lane as it crosses the appeal site. Access to the appeal site directly from the county road is also available via a field gate on the northern boundary of the site.
- 1.3. Approximately 100m to the west of the site is SMR LF014-054 a tree ring. A similar distance to the east of the site is SMR LF014-055 a ringfort. An outbuilding associated with Moatfarrell House, situated to the north of the appeal site and county road, is listed on the national Inventory of Architectural Heritage, as a structure of regional importance.

## 2.0 Proposed Development

- 2.1.1. The proposed development, as amended by way of further information submitted on the 19<sup>th</sup> October 2020 comprises:
  - Storey and a half dwelling (389.84sqm) with detached garage (45.13sqm), situated towards the south of the appeal site (just north of the existing agricultural buildings).
  - Proprietary wastewater treatment system with percolation area, to the west of the proposed dwelling. Site characterisation form indicates R1 groundwater protection response.

- Access to the site via the existing lane, with the existing entrance recessed to a new location to the west and to include a dwell area (Site Layout Plan, October 2020).
- Water supply, via an existing bored well.
- Landscaping includes hedgerow planting behind timber post and rail fencing to the north east and south west of the dwelling and to the west and south of the farm buildings.

2.1.2. Unsolicited further information was submitted by the applicant on the 3<sup>rd</sup> September 2020 providing details of legal entitlement to use laneway and stating that the development is 400m from the public road, will screen the exiting farm buildings and will be finished in stone to blend in with the surrounding landscape. It is also stated that the development is 250m from the nearest moat.

2.1.3. Included in the further information documentation is a legal position that a landowner is obliged by section 70 of the 1993 Roads Act to maintain hedges and trees such that they do not create a hazard to road users.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. On the 11<sup>th</sup> November 2020 the planning authority refused to grant planning permission for the development on the following grounds:

1. Having regard to the location of the development (rural area, archaeological heritage, protected landscape) it was considered that the development would be visually obtrusive, not in accordance with the prevailing pattern, would form disorderly development, contribute to a traffic hazard and set an undesirable precedent. The development would therefore seriously injure the amenities of the area and property in the vicinity.
2. Having regard to the location of the access to the site within 50m of a bend in the local road, significant additional works to create the set back and dwell area, lack of confirmation of achievable sightlines, lack of clarity regarding ownership of lands to support works to entrance, narrow nature of agricultural lane and loss of

trees to facilitate the access, it was considered that the site access was inadequate, likely to cause a traffic hazard and set an undesirable precedent.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- 8<sup>th</sup> September 2020 – Refers to the location and context for the proposed development, submissions and observations made. It states that the applicant has demonstrated a family connection to the area and need for the proposed dwelling. The report recommends further information in respect of entrance details (sightlines, fence line, boundary details).
- 4<sup>th</sup> November 2020 – Refers to the further information submitted and considers that significant concerns remain regarding:
  - Length of achievable sightlines, details of proposed setback dwell area, design of boundary treatment, required area and extent of hedging and trees to be cut back and maintained if not in the ownership of the applicant,
  - Legal issues, use and width of right of way and loss of mature trees along lane.
  - Speculative nature of one-off housing unit and size in relation to significant number of archaeological and heritage assets, protected landscapes and proposed means of servicing.

The report recommends refusing permission for the development.

#### 3.2.2. Other Technical Reports

- Westmeath National Roads Office (31<sup>st</sup> July 2020) – No objections.
- Area Engineer (5<sup>th</sup> August 2020) – No objections subject to conditions, including arrangements to ensure provision of adequate sightlines. Subsequent report (2<sup>nd</sup> November 2020) no objections subject to conditions.
- Appropriate assessment screening (7<sup>th</sup> September 2020) – No potential significant effects. AA not required.

### 3.3. Prescribed Bodies

- Irish Water (25<sup>th</sup> July 2020) – No objections.

### 3.4. Third Party Observations

3.4.1. There are three third party observations on the proposed development. The following issues are raised:

- Urban one-off house. Dwelling substantially removed from road. Inconsistent with normal rural development patterns. Incongruous, visual impact on surrounding landscape.
- Inadequate access:
  - Proposed entrance is an agricultural laneway. Lies within the folio of the adjoining landowner. Question applicant's right to use the laneway for a dwelling house (clarification sought from the Department of Agriculture, Food and the Marine on content of agricultural right reserved and registered as a burden on lands by the Land Commission). Conflict between residential and existing agricultural traffic (narrow lane, substantial use of agricultural activities).
  - Provision of two vehicular entrances at public road hazardous (existing plus one to serve dwelling).
  - Proximity of entrance to bend on public road and limited visibility. Sightlines and stopping distances on the public road are inadequate. Landowner does not give permission to create sightline over his lands. Road is busy, used by commuters, with vehicles travelling at high speed. Proposal brings access road closer to the bend. Absence of survey of traffic speeds.
  - Applicant could explore other means to access lands i.e. via landholding directly from county road.
  - Dispute that the landowner to the east of the site is required to cut and maintain the 'grass verge' alongside the road. Owners/occupiers of

land are required to ensure that it does not interfere with safe use of the public road. Laneway is a private road.

- Removal of hedgerow on right hand side of lane, without consultation with owner, intermittently between 2018 and 2019 throughout the period prohibited under the Wildlife Acts 1976-2018 (1<sup>st</sup> April to 31<sup>st</sup> August).
- Impact on historic and sensitive landscape (including wildlife) of Moatfarrell and proximity to historic monuments, Moat and forts. The submission includes a report by a Licensed Archaeologist attached. It refers to the location of the development in an area with high density of known archaeological remains and the potential for unidentified features of archaeological significance within the site. It recommends archaeological impact assessment and monitoring of top soil removal. Application should be referred to the Department of Arts, Heritage and the Gaeltacht.
- Precedent set by PA ref. PL09/222, PL09/334 (residential development near site, refused) and PL09/123 (in respect of comments made by An Taisce).
- Improper validation of planning application and inaccuracies in planning application form.
- Risk of flooding of adjoining land (to south) with alterations to ground alongside public road.

#### 4.0 Planning History

- PA ref. PL20/23 – Withdrawn.
- PA ref. PL09/222 – Permission refused for a dwelling house on land to the east of the appeal site, north of the public road (impact on historic landscape, inadequate sightlines, pollution of surface/groundwater, visually obtrusive).
- PA ref. PL09/334 – Permission refused for a dwelling house in a similar location as PL09/222, for the same reasons and no rural generated housing need established.
- PA ref. PL09.123 – Erection of dwelling house at Ballymahon, Co. Longford. Application incomplete.

## 5.0 Policy Context

### 5.1. National Planning Framework

- 5.1.1. Sets out a strategic planning framework for the country to 2040 including strategic policies which focus on compact growth, reversing the decline of rural towns and villages and supporting the sustainable development of rural areas, including by managing the growth of areas that are under strong urban influence to avoid over-development.

### 5.2. Development Plan

- 5.2.1. The appeal site lies in a rural area outside of any designated town. Policies of the Longford County Development Plan 2015-2021 recognise the need of certain categories of applicants, defined in policy CS 12, to locate in their own rural areas, subject to adequate provision of services and adequate road safety, water quality, public health, environmental and landscape integrity (HOU RUR 2). Policy CS 12 refers to categories of applicants who shall be considered as having a rural housing need.
- 5.2.2. Transportation policies of the Plan aim to provide a road network which is safe and efficient for all road users (ROADS 2). Policy HOU RUR 9 provides standards for access and vehicular circulation for housing in rural areas, these include the provision of sightlines in accordance with the Design Manual for Roads and Bridges or suitable alternative.
- 5.2.3. The appeal site lies in Landscape Character Area 4, Central Corridor, with significant pressure for one off houses. Landscape sensitivity is generally low, with potential areas of medium to high sensitivity (e.g. in the vicinity of protected woodlands, riverbanks). Moatfarrell/Corbeagh is identified as an area with distinct demesne type landscapes. Policies of the Plan seek to protect and enhance landscape character (LCA 1). Policies of the Plan also afford protection to archaeological heritage and the integrity of the settings of archaeological areas, sites, structures, monuments and objects in the County (ARC 1 and ARC 2).



### 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is removed from any site of natural heritage designation. Nearest national site is Carrickglass demesne proposed Natural Heritage Area (NHA), c. 5km to the west of the appeal site. Approximately 7.5km to the east of the site is Ardagullion Bog Special Area of Conservation and pNHA.

### 5.4. EIA Screening

- 5.4.1. The proposed development is of a type that constitutes an EIA project (involving construction works and demolition). However, it is not of a scale likely to give rise to significant environmental effects to warrant environmental impact assessment.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. Grounds of appeal are:

- The planning system is not designed to resolve disputes about title to land or rights over land.
- The applicant has a 3.6m wide gate in this front boundary wall/fence. He uses this gate to the front field. Use of the adjoining laneway (contested) is a bonus. 80m sightlines can be provided at the proposed access to the site, with no need to trim hedges/grass margins.
- Reference to historical monuments in the area is irrelevant. The dwelling is c.100m from the nearest ringfort. There are >80,000 ringforts in Ireland. The development will have no impact on the ringfort. The applicant does not object to a standard archaeological condition.
- Planners second report and reasons for refusal introduce the terms visually obtrusive, prevailing pattern of development and disorderly development. No supporting rationale, unfair and unsupported. Statements contradict earlier report. Little ribbon development in the vicinity of the site.

- Applicant has submitted sufficient legal interest in application lands. Letter of consent attached from applicant's wife.

## 6.2. Planning Authority Response

6.2.1. The following additional points are made in response to the appeal:

- Notes the legal argument but remains of the view that the applicant cannot demonstrate sufficient legal access to the laneway.
- Remain concerned about the safety of the existing vehicular access points to the site. Revised plans, submitted with appeal, demonstrate 80m sightlines in each direction. Plans do not provide information on blocking up of existing field entrance or how applicant will link new site entrance to development site or existing laneway. Proliferation of site access points not supported by the planning authority in proximity to dangerous bend. No reference in plans to land contours/significant fall from roadside edge. Entrance will result in the loss of mature trees which screen the existing farmyard from the public road. No details on proposals to remove or replacement planting.
- PA identified that a proposed archaeological condition be proposed if permission were to be recommended.
- Note comment on Planners Report. Immediate area/landscape is a sensitive one of archaeological importance containing numerous heritage assets. Development would not be in accordance with the prevailing pattern of development, would contribute to traffic hazard and set an undesirable precedent.
- Note inclusion of applicant's wife as land owner.
- Propose conditions, should the Board decide to grant permission.

## 6.3. Observations/Further Responses

6.3.1. On the 14<sup>th</sup> December 2020 Development Applications Unit, An Taisce and The Heritage Council were invited to comment on the appeal. No responses have been received.

## 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 policies, I consider that the main issues for this appeal are:

- Traffic hazard.
- Impact on landscape, rural location and archaeology.

7.2. In addition, parties refer to the following matters which I comment on briefly:

- Applicant's legal interest in the laneway – Whilst this matter has a bearing on the appeal, discussed below, it is primarily a legal one, that lies outside the scope of this appeal.
- Applicant's interest in the land – The planning authority are responsible for validating planning applications. In this instance, they have accepted that the applicant has sufficient legal interest in the appeal site to make the planning application and I note that this is supported by information on file.

### 7.3. Traffic Hazard

7.3.1. As stated by the parties to the appeal, the appeal site lies on the outside of a bend in the county road (speed limit 80kph). The road, north and south of the bend, is wide and vehicles were observed driving at speed both approaching and leaving the bend.

7.3.2. TII in their report Rural Road Link Design (DN-GEO-03031) refer to a design speed of 85kph for roads with a speed limit of 80kph and a desirable minimum stopping distance of between 90 and 160m depending on different circumstances (including curvature).

7.3.3. The applicant presents two scenarios for accessing the site. In response to the FI the applicant proposes locating the entrance in the approximate location of the existing gated entrance, recessing it from the public road and providing a dwell area. It is inferred from the drawing that the access then makes use of the existing laneway.

7.3.4. In response to the appeal, it is proposed to move the entrance further north, again recessed from the public road and with a dwell area. In both instances 80m

sightlines are provided. However, I have a number of reservations with the distances indicated:

- i. The appropriateness of the 80m sightline is not substantiated by reference to road conditions (e.g. speed of traffic, curvature) and reference to TII or DMRB requirements.
- ii. From inspection of the site, I am not confident that the indicated sightlines can be achieved in practice due to the bend in the public road and vegetation/walls bounding the eastern carriageway, in particular to the north of the site (see photographs). If a vehicle, travelling south, is stopped waiting to turn into the appeal site (either proposed entrance), there is a risk that traffic travelling behind would not have sufficient stopping distances and may collide with the stopped vehicle. Similar issues arise with a vehicle leaving the site and travelling south.

7.3.5. In the absence of more detailed information on (a) vehicle speeds on the public road, (b) features of the public road (road geometry and roadside boundaries), (c) consequential detailed design of access to the site in accordance with TII/DMRB (or other relevant standard), and (d) requirement for sightlines over third party lands, I do not consider that there is sufficient information to determine that adequate sightlines and forward visibility can be provided for either of the options presented. I consider, therefore, that the arrangements for accessing the site pose a risk of traffic hazard.

7.3.6. In addition to the foregoing, as stated by the planning authority, there is an absence of information on the arrangements to connect the revised access to the site from the public road (submitted at appeal) to the location of the proposed dwelling and how the difference in levels between the public road and the appeal site, will be addressed.

#### **7.4. Impact on landscape, rural location and archaeology**

7.4.1. The appeal site lies in a rural area where the pattern of development is primarily agriculture with scattered rural housing. The landscape contains a number of archaeological features associated with the historic development of the area. These include in the immediate area of the site, the designated tree ring and ringfort to the

north and south of the site respectively and the outbuildings of Moatfarrell House to the north of the site. There is no information on file, or on historic OS maps to indicate that the appeal site forms part of any demesne landscape.

7.4.2. Whilst I am mindful of these features, the proposed development is removed from the immediate setting of the monuments/structures and will not directly impact on their setting. Further, the proposed dwelling will be situated adjoining existing agricultural structures and will be screened by hedgerow planting to the east and west of the dwelling. Whilst the development would add another one-off house to the rural area, I do not consider that the proposed development would detract significantly from the visual amenity of the area or the historic landscape. The potential for sub-surface remains could be addressed by condition.

7.4.3. Notwithstanding the foregoing, the proposed dwelling lies in a rural area where the planning authority's policies apply in respect of rural housing. The planning authority has stated that the applicant has demonstrated a rural housing need but there is no information on file to support this conclusion. If the board are minded to grant permission for the development I consider that further information should be sought in this regard.

## **8.0 Appropriate Assessment**

8.1. The appeal site is considerably removed from any European site. The small stream crosses the appeal site ultimately drains into Lough Forbes Complex SAC, over 13km to the west of the site. However, the development is very modest in scale (single dwelling) and in the absence of any mitigation measures, discharges from the site by way of foul or surface water are unlikely to have any significant effect on downstream European sites, at such remove. No appropriate assessment issues therefore arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

9.1. I recommend that the Board refuse to grant permission for the development for the reasons stated below.

## 10.0 Reasons and Considerations

Having regard to the location of the proposed development on a bend in the public road, and the absence of detailed information on speed of traffic on the local road, design and provision of sightlines, it is considered that the traffic turning movements generated by the proposed development would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Planning Inspector

10<sup>th</sup> May 2021