



An  
Bord  
Pleanála

## Inspector's Report ABP-309468-21

---

<b>Development</b>	Construction of two storey dwelling with detached domestic garage, upgrade of existing entrance.
<b>Location</b>	Keeny , Cloverhill , Co. Cavan
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	20533
<b>Applicants</b>	Pamela Gumley and Kevin Clancy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Pamela Gumley and Kevin Clancy
<b>Date of Site Inspection</b>	29 <sup>th</sup> June 2021
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at Keeny townland, Cloverhill, Co Cavan. The site fronts onto the national secondary road N54 which joins Monaghan town with Cavan town (via the N3 at Butlersbridge) and which is divided into three sections interspersed with short road lengths within Northern Ireland, where it is classified as parts of the A3.
- 1.1.2. The site is in a rural area, where a speed limit of 100km/hr applies, 2.7km north of Butlersbridge and 1.5km south of Cloverhill, due north of Cavan town. There is a single storey dwelling close to the road to the north, and a two storey dwelling set farther back to the south.
- 1.1.3. The site is given as 0.3814ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development is the erection of a fully serviced two storey dwelling with detached domestic garage, upgrade of existing entrance, sewerage treatment facilities & all ancillary works. The proposed dwelling is described as a replacement dwelling.
- 2.1.2. The drawings supplied show a two storey dwelling, given as 223m<sup>2</sup>, set close to the rear of the site, behind adjacent dwellings, and a detached garage, given as 26m<sup>2</sup>.
- 2.1.3. A site characterisation report was submitted. Rock was encountered 1.4m below ground level, and the report recommends a built percolation area.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The planning authority decided to refuse permission for two reasons:

1 The proposed development, which would result in the intensification of use of a vehicular access onto the National Secondary Road (N54) at a point where a speed limit of 100 km/h applies, would endanger public safety by reason of traffic hazard, and the additional vehicular traffic generated by the proposed development

would lead to conflicting traffic movements, which would interfere with the safety and free flow of traffic on the heavily trafficked National Secondary Road.

2 Having regard to the information submitted on rural housing need, it is considered that the applicants have not demonstrated a rural generated housing need at this location and therefore the proposed development would materially contravene Section 2.7.5 and Objective RHO5 and that the applicant's cannot comply with the Rural Housing Policy RHP1 of the Cavan County Development Plan 2014-2020 and the proposed development is therefore considered to be no in the interests of the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The planning report includes:

- Stronger rural area characterised by stable population levels, associated with large to medium sized towns. Capacity exists within these towns for the development of housing.
- Development plan policies DMO15, DMO16, DMO 17 re. re-use and replacement of dwellings are referred to.
- Rural need not demonstrated a rural generated housing need per objective RHO5.
- Located in the buffer zone for the L Oughter and Associated Loughs SAC/SPA.
- TIA report.
- Recommending refusal on traffic safety grounds.
- Appendix 1 refers to the applicants rural housing need. Applicant is resident in a rural area 5.5km away.

## **3.3. Prescribed Bodies**

### **3.3.1. Transport Infrastructure Ireland**

TII – considers it at variance with official policy in relation to the control of development on/affecting national roads, as the proposed development by itself, or by the precedent which a grant of permission would set, would adversely affect the operation and safety of the national road network for the following reasons.

Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012) the proposal if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would in the authority's opinion be at variance with the foregoing national policy.

Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012)

section 2.5 of the guidelines states that 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 to which speed limits greater than 60 kmh apply. The proposal if approved, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to frontage development on national roads.

This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant .

## **4.0 Planning History**

None stated.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The Cavan County Development Plan 2014-2020 is the operative plan. Relevant provisions include:

DMO17 Cavan County Council shall assess applications for refurbishment and/or replacement of existing housing stock in rural areas, having regard to the following criteria;

- In the case of replacement dwellings, to require that the original structure was last used as a dwelling and that its roof, internal and external walls are generally intact.
- That replacement dwellings are provided at locations where safe access and acceptable wastewater disposal arrangements can be put in place and where other policies and objectives of the Development Plan are not compromised.
- That in the case of refurbishment and extension proposals, that the scale and architectural treatment of proposed works are sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development.
- That the replacement dwelling shall be designed to be of a size and scale appropriate to the site.
- The design of replacement dwellings in rural areas shall comply with the 'Design Guide for Single One-off Rural Houses within Cavan Rural Countryside'.

### **National Roads**

National policy in relation to development involving access to national roads and development along national primary and national secondary roads is set out in the 'Spatial Planning and National Roads Guidelines' published by the DECLG in January 2012. The Guidelines state that the:

'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 to which speed limits greater than 60kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant'.

Objectives:

DMO21 To protect and maximise the potential of the county's national primary and secondary roads as key strategic infrastructure vital to the county's continued economic development by preventing ribbon development or random one-off housing.

DMO22 To ensure that future development affecting national primary or secondary roads shall be assessed in accordance with the guidance given in the document 'Spatial Planning and National Roads - Guidelines for Planning Authorities,' January 2012'.

Policy:

PIO22 To restrict accesses onto National Roads along sections of road where the speed limit exceeds 60km per hour and to restrict the intensification of any existing accesses in such locations, except in exceptional circumstances, as defined by Section 2.6 of the DECLG 'Spatial Planning and National Roads Guidelines,' in line with DECLG policy and as supported by the NRA.

PIO23 To have regard to the NRA document 'Traffic and Transport Assessment Guidelines' and 'Spatial Planning and National Roads Guidelines' published by the DECLG, 2012 and, where appropriate, the Inland Fisheries Board Guidelines 'Requirements for the protection of fishery habitat during construction and development works at river sites.'

Policy

RHP1 Rural generated housing needs should be accommodated in the locality in which they arise and where the applicant comes within the development plan definition of need, subject to satisfying good planning practice in matters of location, siting, design, access, wastewater disposal and the protection of environmentally sensitive areas and areas of high landscape value.

Objectives

RHO1 Urban generated housing needs should be accommodated in areas identified for housing in the adjoining towns and villages.

RHO2 All rural housing planning applications shall be required to complete a "Rural Housing Application" form. The purpose of this form is to ascertain the need for housing in rural areas and to allow the Planning Authority to monitor trends to ensure effective decision making.

RHO5 Applicants shall submit evidence of their rural generated housing need at the particular location they are seeking permission.

The site is in a stronger rural area

#### Key Objective

To facilitate rural generated housing needs subject to good planning practice in matters of location, siting, design and the protection of environmentally sensitive areas and areas of high landscape value, whilst directing urban generated housing need to areas identified for housing in the adjoining towns and villages.

## 5.2. Spatial Planning and National Roads

5.2.1. These guidelines published in January 2012 set out planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60 kmh speed limit zones for cities, towns and villages.

5.2.2. Of relevance:

(2.5 ) Lands adjoining National Roads to which speed limits greater than 60 kmh 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 to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

## 5.3. Natural Heritage Designations

5.3.1. The nearest Natura site is Lough Oughter and Associated Loughs SAC (site code 000007) located north, east and south of the subject site, and less than 200m direct line distance away.

## 5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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. Michael Fitzpatrick Architects have appealed the decision on behalf of the first party. The grounds includes:

- Re. reason 1 – there is currently an existing agricultural entrance located adjacent to the site. This entrance would have served the existing dwelling which they are going to replace. It is proposed to relocated this entrance in order to achieve the maximum sightlines possible which will be in excess of 120m . This would not lead to conflicting traffic movements.
- Re. reason 2 – the applicant Pamela has lived in the locality all her life. The site has been in family ownership for a long number of years. Her sister and brother in law live just 450m away. Her family dwelling is 5km away. An alternative site at this location was explored, however it would have resulted in the creation of a new entrance at a dangerous junction off the main N3. A map indicating the location of the applicant’s family dwelling is included.

### **6.2. Planning Authority Response**

6.2.1. The planning authority have responded to the grounds of appeal stating:

- Re. the existing entrance – the site is adjacent to the national secondary road which links Cavan to Monaghan. The Cavan County Development Plan states that the N54 forms part of the strategic route linking Belfast to the West and Mid-west. It is a major cross border link that runs through counties Cavan, Monaghan and Fermanagh and links the hub towns of Cavan and Monaghan.
- The planning authority upheld Policy PIO22.
- In reaching its decision the planning authority noted the argument for a replacement dwelling at this location, which comprises a derelict and abandoned house, however the applicant could not comply fully with the



policies and objectives of the County Development Plan with regard to both replacement dwellings and development on national roads.

- Re. second refusal reason – that Pamela has lived in the locality all her life; the site has been in family ownership for many years; her sister and brother in law live just 450m away; her family dwelling is located in Deggan just 5km away; an alternative site was explored however given it would have resulted in the creation of a new entrance at a dangerous junction off the main N3, with adverse impact on the national road and safety of road users and precedent it was not progressed. The planner’s report states that the development is not acceptable having regard to the provisions of the County Development Plan.

## **7.0 Assessment**

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, and the principle of proposed development, and the following assessment is dealt with under these headings

### **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues 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.

### **7.3. Principle of Proposed Development**

#### **7.4. National Road**

- 7.4.1. The Spatial Planning and National Roads, guidelines for planning authorities published in January 2012 sets out planning policy considerations relating to development affecting national primary and secondary roads, outside the 50-60 kmh speed limit zones for cities, towns and villages.
- 7.4.2. It states (at 2.5 ) that for lands adjoining National Roads to which speed limits greater than 60 kmh apply, the policy 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.

7.4.3. Development Plan objectives DMO21 & DMO22 and policies PIO22 & PIO23 apply.

7.4.4. The proposed development would access the national secondary at a location where the speed limit of 100 kmh applies and is therefore unacceptable in principle.

#### 7.5. Rural Housing Policy

7.5.1. The policy re rural housing as set out in the CDP is to facilitate rural generated housing need at the particular location they are seeking permission. The applicant's family dwelling is on a landholding 5km away.

7.5.2. The Spatial Planning and National Roads, guidelines states that prohibition on development generating increased traffic accessing national roads applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

7.5.3. The proposed dwelling is contrary to housing policy and unacceptable in principle.

#### 7.6. Replacement Dwelling

7.6.1. The proposed dwelling is described as a replacement dwelling. The grounds of appeal includes a drawing indicating the location of the existing dwelling to be replaced.

7.6.2. A building can be seen in this location on the OSI historic Map 25" mapping surveyed between 1888 and 1913, and also on OSI's Cassini 6" mapping surveyed between the 1830's and 1930's. A building can also be seen on the OSI's aerial surveys or orthophotos for the area, including the most recent available. The location is not visible from the road as it is separated from the road by undergrowth. However the only road entrance in evidence along the total road frontage of the landholding, as identified in the documents submitted, is a field entrance and no access is available to the building. A field entrance as exists would be sufficient for agricultural use but not for use by a dwelling.

7.6.3. No evidence of use as a dwelling has been provided. On the basis of the information available it cannot be accepted that this is a replacement dwelling, therefore the proposed dwelling is unacceptable in principle.

## 8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

## 9.0 Reasons and Considerations

- 1 The proposed development would endanger public safety by reason of traffic hazard because the site is located alongside the National Secondary Road N54 at a point where a speed limit of 100 km/h applies and the traffic turning movements generated by the proposed development would interfere with the safety and free flow of traffic on the public road.
  
- 2 The proposed development, by itself or by the precedent which a grant of permission for it would set for other relevant development, would adversely affect the use of the national road by traffic.
  
- 3 Having regard to the information submitted, it is considered that the applicants have not demonstrated a rural generated housing need at this location and therefore the proposed development would contravene the provisions of the Cavan County Development Plan 2014-2020 in relation to rural housing and in particular policy RHP1; accordingly the proposed development would be contrary to the proper planning and sustainable development of the area.

---

Planning Inspector

15 July 2021

Appendices:

Appendix 1 Photographs

Appendix 2 Cavan County Development Plan 2014-2020, extended, extracts.