



An
Bord
Pleanála

Inspector's Report ABP-310979-21

Development	Construction of a dwelling house, domestic garage, installation of septic tank and percolation area and all associated site works
Location	Coologe, Fivealley, Birr, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	21/67
Applicant(s)	Seán T. Guinan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Transport Infrastructure Ireland
Observer(s)	None
Date of Site Inspection	10th day of December 2021
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.38 hectares and is located within a rural part of County Offaly, approximately 8 kilometres north of Birr. The site is located just north of the national secondary route, the N52. To the north, south and west of the appeal site are agricultural lands, which form part of the family farm holding and to the east is a private roadway, which is approximately 4 metres wide. There are a number of dwellings (including the family home) on the opposite side of the N52 and a local Church, St James Catholic Church is located approximately 250 metres south-west of the appeal site, and accesses directly off the N52. The 80 kilometre per hour speed control zone applies at the location.
- 1.2. The northern boundary comprises a 2-metre-tall mature hedgerow and post and wire fencing, the eastern boundary comprises a 2-metre-tall post and wire fence. The site is open to the field along its southern and western boundaries. The levels on the site rise towards the centre of the site and fall from that middle point on the site towards each of the appeal site boundaries. The site is rectangular in shape and has no features of note.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a storey and a half type dwelling, domestic garage, installation of a septic tank and percolation area and associated site works. The site would be accessed via a new domestic entrance off the private road, east of the site.
- 2.2. The proposed dwelling would have a gross floor area of 272 square metres (sq. m.) and a maximum ridge height of 8.6 metres.

3.0 Planning Authority Decision

- 3.1. Offaly County Council granted planning permission for the proposed development subject to thirteen conditions. The following is a summary of the pertinent conditions:

Condition number 2: Occupancy clause.

Condition number 3: Finished floor levels.

Condition number 4: External finishes.

Condition number 5: Boundary treatment.

Condition number 7: Installation and maintenance of septic tank and percolation area.

Condition number 12: Landscaping

Condition number 13: Development Contributions.

3.1.1. Planning Authority Reports

Planning Report:

Local Needs Policy SSP 20 applies to the proposal. The Planning Authority deemed that the applicant had demonstrated compliance with the requirements of SSP-20, as required under the Rural Housing Policy.

The report also included a Screening for Appropriate Assessment which concluded that due to the scale and nature of the development it would not be considered that the development would be likely to have a significant effect either individually, or in combination with other plans and projects on any European site and therefore, the submission of a Natura Impact Statement is not required.

Similarly, an Environmental Impact Assessment (EIA) Screening concluded that by virtue of the nature of the development that there was no real likelihood of significant effects on the environment arising, and therefore, the submission of an EIAR is not required.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2. Other Technical Reports

Environment & Water Services Department: No objection, subject to conditions.

Municipal District Engineer: No objection, subject to conditions.

Road Design: No objection, subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: They set out that the proposal is at variance with policy in relation to control of development on/affecting national routes as outlined in

the Guidelines issued by the Department of Environment, Community and Local Government entitled, Spatial Planning and National Roads Guidelines for Planning Authorities, 2012.

3.4. **Third Party Observations**

None received.

4.0 **Planning History**

I am not aware of any planning history pertaining to the appeal site.

5.0 **Policy and Context**

5.1. **Development Plan**

5.1.1. Offaly Development Plan 2021-2027

Section 2.5-Settlement Strategy Policies

(D) Open Countryside-Housing in Rural Areas under Strong Urban Influence and Stronger Rural Areas, and Areas of Special Control

As per Figure 2.6, the appeal site is located between Birr and Kilcormac just off the N52 just south of Fivealley crossroads. The appeal site is an area identified as being of National/International Conservation Designations (Special Protection Areas, Special Areas of Conservation, Natural Heritage Areas), which is defined as one of the Areas of Special Control as referenced in Section 2.5.

SSP27 is applicable to Areas of Special Control and sets out the following:

“Having regard to the need to protect County Offaly’s natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (1-4) can be demonstrated:

1. The applicant has a functional economic or social requirement to reside in this particular rural area in accordance with (i) or (ii):

(i) Economic requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the

Minister, a Functional Economic Requirement in County Offaly shall be taken as including persons who by the nature of their work have a functional economic need to reside in the local rural area close to their place of work. It includes persons involved in full-time farming, horticulture or forestry as well as similar rural-based part-time occupations where it can be demonstrated that it is the predominant occupation. The 'local rural area' is defined as the area generally within 8km radius (5km radius particular to Areas of Special Control) of the place of work. or

(ii) Social requirements will normally encompass persons referred to in the revision to the Sustainable Rural Housing Guidelines 2005 and, if applicable, circulars. Pending the making of the revised Sustainable Rural Housing Guidelines by the Minister, a Functional Social Requirement in County Offaly shall be taken as including (a) or (b) below: (a) The applicant was born within the local rural area or is living or has lived in the local rural area for a minimum of 5 years (15 years particular to Areas of Special Control) at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local rural area. The 'Local Rural Area' for the purpose of this policy is defined as the area generally within an 8km radius (5km radius particular to Areas of Special Control) of where the applicant was born, living Offaly or has lived. For the purpose of this policy, the rural area is taken to include 'Villages' listed in the Settlement Hierarchy, but excludes Tullamore, Birr, Edenderry, Portarlinton, Banagher, Clara, Daingean, Fermoy and Kilcormac (i.e., the Key Town, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Smaller Towns listed in the Settlement Hierarchy. Or

(b) Special consideration shall be given in cases of exceptional health circumstances - supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support or requires a close family member to live in close proximity to that person.

2. The applicant does not already own or has not owned a house in the open countryside.

3. If the site is located within an Area of Special Control, there is no alternative site outside of Areas of Special Control.

4. High quality siting and design.

The Settlement Strategy recognises the tradition of rural living and the requirements of people connected with the rural area and/or with an identified need to reside in the open countryside.

Rural housing will be assessed against the following criteria:

To determine if there is an issue with ribbon development,

Number of houses located along the particular stretch of road,

What distance of road is fronted by existing rural housing?

Number of access points to existing houses. This does not assume that intensifying the use of an existing access mitigates against ribbon development or overcomes the issue,

Is the site a gap or infill site or is it considered to extend an existing ribbon of houses?

Is there a design solution proposed to integrate building and mitigate against the visual impacts of ribbon development?

Section 8.6.1 of the Plan pertains to Motorways and National Roads where the following is set out:

To ensure that past and future public investment in road improvements is not diminished in whole or in part and to ensure the safety and free flow of traffic, future development requiring direct access onto National Secondary routes will be restricted and assessed against the provisions of the Spatial Planning and National Roads - Guidance for Planning Authorities issued by the DoECLG in January 2012. Offaly County Council considers that there are currently no exceptional circumstances as set out in section 2.6 of the Guidelines on Spatial Planning and National Roads that would require the identification of stretches of national roads

where a less restrictive approach to that identified in Table 8.3 below may be applied.

Specific policies SMAP.s 23-25 in relation to protecting and maintaining national routes are relevant in this instance.

5.2. National Policy

5.2.1. Sustainable Rural Housing Guidelines DOEHLG 2005.

The Guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those in proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of 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.'

5.2.2. National Planning Framework

Policy Objective 19 is to: 'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- In rural areas elsewhere, 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.

5.2.3. Spatial Planning and National Roads Guidelines for Planning Authorities, Department of Environment, Community and Local Government, 2012

5.3. Natural Heritage Designations

None relevant.

5.4. Environmental Impact Assessment - Preliminary Examination

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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 in this instance.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been submitted by Transport Infrastructure Ireland (TII).

The main issues raised within the appeal submission can be summarised as follows:

- The development relies on the use of a shared private laneway directly accessing onto the N52, national secondary road, where an 80km/h speed limit applies, and in the Authority's opinion, is at variance with the provisions of official policy
- TII considers that the grant of permission in this instance has the potential to compromise the safety and efficiency of the national road network at a location where an 80km/h speed limit applies and, in the opinion of the Authority, it is at variance with the provisions of official roads policy.
- The Spatial Planning and National Roads Guidelines for Planning Authorities (2012) state that in relation to lands adjoining national roads to which speed limits greater than 60km/h apply, that the policy of the Planning Authority will be to avoid the creation of any additional access point for 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 the housing circumstances of the applicant.
- The development would inevitably bring about additional vehicular movements resulting in intensification of use from an access road onto and off the national secondary road.

- The traffic assessment submitted by the applicant only includes data associated with limited direct trips with the occupation of the dwelling, but no data relating to third-party trips associated with services, utilities or visitors are, typical trips associated with a dwelling is included as part of the traffic assessment.
- The Spatial Planning and National Road Guidelines outline that the creation of new accesses and the intensification of existing accesses onto national roads give rise to the generation of additional turning movements that introduce additional safety risks to road users.
- The development would be at variance with official roads policy to preserve the level of service, safety and carrying capacity of national roads and to protect the public investment in such roads as outlined in the 2012 National Roads Guidelines.
- From a road safety perspective, Authorities must guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50/60km/h apply.
- The controlling of the extent of direct access to national roads at high-speed locations, and turning movements associated with such accesses, is a critical element in meeting road safety objectives in accordance with the promotion of policy, including the Road Safety Authority's Road Safety Strategy 2013-2020.
- The grant of planning permission by the PA is inconsistent with the provisions of the Offaly County Development Plan, specifically Section 4.5.4, Table 4.2 and specific policies STAP 17 and 18
- Section 2.6 of the NRA Guidelines provides for a less restrictive approach that may be applied to the control of development accessing national secondary roads. This approach is confined to lightly trafficked sections of national roads. The TII consider that this less restrictive approach would not apply to the N52 which is identified as a critically important strategic inter-regional link route. No such exception is set out within the Offaly County Development Plan.
- The TII notes the limited scale of land holding (13-14 acres) from which the appeal site is taken. No exceptional circumstances have been presented by the

applicant or Local Authority that would justify a departure from standard road policy and road safety considerations in this instance.

- The proposals would establish a precedent, would endanger public safety by reason of a traffic hazard by virtue of the additional traffic generated, including turning movements onto the N52 national secondary route at a point where the 80km/h speed limit applies, and would interfere with the safety and free flow of traffic.
- There is a requirement to ensure adequate maintenance of the national road network in order to protect the value of previous investments, and that such investments are not jeopardised as set out within National Strategic Outcome (NSO) number 2 of the National Planning Framework.

6.2. Planning Authority Response

The Planning Authority stated that it had noted and considered the content of the third-party appeal submission and request that the Board uphold its decision to grant planning permission.

7.0 Assessment

- 7.1.1. At the time the Planning Authority made its planning decision on the 12th day of July 2021, the Offaly County Development Plan 2014 -2020 was in effect. However, the Offaly County Development Plan (ODP) 2014-2020 has since been superseded by the Offaly County Development Plan (ODP) 2021-2027, operational since the 20th day of October 2021, along with its updated Rural Housing Policy.
- 7.2. The main issues in this appeal relate to access to the appeal site from a national secondary route. Compliance with the Offaly Rural Housing Policy and design and layout will also be assessed. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The proposals in terms of dwelling design, access and servicing are considered satisfactory. The main issues can be dealt with under the following headings:
- Access and traffic

- Compliance with Rural Housing Policy.
- Design and Layout
- Appropriate Assessment.

7.3. Access and traffic

- 7.3.1. Access to the appeal site is from a private laneway which accesses directly onto the N52, national secondary route at a point where the 80 kilometre per hour speed control zone applies. The applicant has submitted details of sightlines, whereby unobstructed visibility of 160 metres in each direction would be achieved at the junction of the private laneway with the N52. The site access is located approximately 100 metres west of the junction of the private laneway with the N52.
- 7.3.2. The appellants state that the development “has the potential to compromise the safety and efficiency of the national road network at a location where the 80km/h speed limit applies, in the opinion of the Authority, is at variance with the provisions of official policy”. The stated policy of TII is set out within the Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, 2012). Section 2.5 sets out the following: 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 the housing circumstances of the applicant”.
- 7.3.3. I am of the opinion that the development would generate additional vehicular movements which would intensify the level of traffic that would be generated at the junction of the private laneway with the N52. The increase in trips would be generated by the day-to-day activities of the applicant, trips generated by other services, utility providers attending the site or visitors driving to/from the site. The applicant submitted a traffic analysis which sets out that the development would generate a modest number of trips and turning movements. However, the traffic analysis does not take account of trips generated by utility providers, visitors or service providers. Transport Infrastructure Ireland (TII) make reference to the need “to maintain the strategic function and to protect, maintain and ensure the safety of this finite and critical network resource”. Managing the extent of direct accesses to

national routes and the turning movements associated with these accesses is critical in terms of adhering to TII's policy in terms of maintaining and the strategic function of these routes, which TII state carry 46% of all road traffic in Ireland and 50% of those travelling by public transport.

- 7.3.4. Section 8.6.1 of the Offaly Development Plan sets out specific policies and objectives in relation to the maintenance and protection of the N52 specifically refer to protecting and maintaining these routes for increased levels of access points. Specific policies 23-25 of the Plan are relevant in this regard.

SMAP-23 seeks to strictly control development, outside of identified settlements, which could generate significant additional traffic, thereby potentially compromising the capacity and efficiency of the national roads/restricted regional roads and associated interchanges and possibly lead to the premature and unacceptable reduction in the level of service available to road users. SMAP-24 seeks to maintain and protect the safety, strategic transport function, capacity and efficiency of national roads, motorways and associated junctions and in accordance with Strategic Planning and National Roads Guidelines 2012. SMAP-25 seeks that development(s) requiring a new direct access or an intensification of an existing access onto a National Secondary Road, or onto a privately owned road leading onto a National Secondary Road where a speed limit greater than 60 km/h applies will be avoided in accordance with the provisions of Spatial Planning and National Roads Guidelines for Planning Authorities, January 2012. Exceptional circumstances may be considered where the development is of national and regional strategic importance, is plan-led and complies with the criteria set out in the Spatial Planning and National Roads Guidelines in this regard

- 7.3.5. I note that the Road Design Section within the Local authority recognised that permitting the intensification of an access off a National secondary route would not be "strictly in adherence with policy" However, they felt in this "exceptional case", permitting the access was warranted. However, they did not specify what were the exceptional/unique circumstances of this case that warranted supporting a proposal which is contrary to both National and local roads policies.

- 7.3.6. The applicant has not presented any exceptional circumstances that would justify a departure from the policy as set out by TII in terms of road safety considerations. It is

considered the development proposal would establish an undesirable precedent, would endanger public safety by reason of a traffic hazard by virtue of the additional traffic that it would generate, including turning movements onto the N52 secondary route at a point where the 80 kilometre per hour speed control limit applies, and would interfere with the safety and free flow of traffic along this strategic route.

7.4. Compliance with Rural Housing Policy

- 7.4.1. The National Planning Framework within National Planning Objective 19 requires that in rural areas under urban influence, planning authorities facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.4.2. The site is in an area under strong urban influence in the NSS rural area types map referred to in the Sustainable Rural Housing Guidelines. The guidelines describe these areas as close to the immediate environs or close commuting catchment of larger cities and towns, having rising populations, exhibiting evidence of considerable pressure for housing development due to proximity to urban centres or major transport corridors. Having regard to the proximity of the application site to a National secondary route, I consider that this area is under pressure for one off rural housing unrelated to the agriculture land use in the area.
- 7.4.3. The County Development Plan (3.4.1) outlines a settlement hierarchy with Tullamore as the main focus of development being the key town, followed by Birr as being as a self-sustaining growth town and Edenderry and Portarlinton as self-sustaining towns. The next tier within the settlement hierarch is towns, followed by small towns, which includes Kilcormac, villages and Sráids. Fivealley, located approximately 0.5 kilometres to the north-east of the appeal site is identified as a Sráid, within the settlement strategy. The County Development Plan states that it will “focus on protecting and consolidating existing settlements”. Policy SSP03 seeks to “Strengthen the core of settlements and encourage the compact growth of settlements by way of the development of infill sites, brownfield lands, under-utilised land / buildings, vacant sites, and derelict sites within the existing built-up footprint of the settlements, and develop outwards from the centre in a sequential manner.” and

(policy SSP21) seeks to “support housing taking place within Sráids to act as a viable alternative to one-off housing in the open countryside but with limited scope for small-scale multi-house developments of up to 4 houses only”.

7.4.4. Based on the sparse documentation submitted with the application in terms of local housing need, it is not considered that the applicant has demonstrated demonstrable economic or social need to live in a rural area set out in the NPF or a rural generated housing need that meets the criteria set out within the Sustainable Rural Housing Guidelines, or a site-specific housing need to build in this local rural area as required by the Offaly County Development Plan. I additionally conclude that the proposed development would contravene the settlement strategy set out in the plan to, inter alia, support protection and consolidation of rural villages.

7.4.5. In the absence of an identified locally based, site specific economic or social need to live in the area, it is considered that the proposed development would contribute to the development of random rural housing in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of the adjacent urban settlements of Birr and Kilcormac.

7.5. **Design and Layout**

7.5.1. The applicant is seeking to construct a one and a half storey dwelling with a floor area of 272 sq. m. and a maximum ridge height of 8.6 metres. As per the details included within the Site layout Plan, levels on the appeal site vary from 74 metres Ordnance datum (mOD) to the south-east of the site to 66mOD to the south-west of the appeal site. The finished floor level of the dwelling is stated to be at 72.8 mOD.

7.5.2. The design of the dwelling is not considered to accord with the scale, form and design guidance set out within the Offaly Rural Design Guide, specifically in relation to the bulky gable end facing onto the N52, the two-storey central projection feature and the height of the dwelling on an elevated site, being visually prominent from the N52. I consider that the design of the dwelling on a prominent and elevated site would represent an incongruous feature within the local landscape and would be contrary to the proper planning and sustainable development of the area.

7.5.3. On balance, the proposals would be contrary to the provisions of the Offaly Rural Design Guide, specifically Sections 2 and 3 in relation to scale, form and design, would establish an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

7.6. **Appropriate Assessment**

The nearest Natura 2000 site, Dovegrove Callows is located approximately 6.2 kilometres south-west of the appeal site. There is no pathway linking the appeal site to this European site. Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, 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.

Lough Coura pNHA is located approximately 0.7 kilometres north-west of the appeal site. There is no pathway linking the appeal site to Lough Coura.

8.0 **Recommendation**

I recommend that planning permission be refused for the following reason:

9.0 **Reasons and Considerations**

- 1 It is considered that the proposed development, which would result in an intensification of use of a private laneway onto the National Secondary Road, N52, at a point where the speed limit of 80 km/h applies, would endanger public safety by reason of a 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.
- 2 Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to

persons demonstrating local need in accordance with the current Offaly County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 3 It is considered that, by reason of its height and bulk, the proposed two storey house would be visually obtrusive in this open rural area. The proposed house would, therefore, be contrary to the proper planning and sustainable development of the area.

Fergal Ó Bric

Planning Inspectorate

31st January 2022