



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311954-21

---

<b>Development</b>	Construct a dwelling house, domestic garage, septic tank treatment system and all associated site works
<b>Location</b>	Heath Lodge, The Heath, Portlaoise, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	21168
<b>Applicant(s)</b>	Ciaran Booth and Michelle Guinan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Marc Hussey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28 <sup>th</sup> of March 2022
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The subject site, 0.4244ha, is a greenfield site located in a rural area of Co. Laois. The Great Heath adjoins the site, and it is a proposed Natural Heritage Area, located to the north-east of Portlaoise town off the M7.
- 1.2. The proposed development is located to the south of the L3811 which links up with the M7 motorway, 2.3km west of the site.
- 1.3. The site is in agricultural use, within a larger agricultural holding. The farm buildings associated with the landholding are setback back to the south of the site. The family home (applicant's parents) is at the entrance to the farmyard, positioned along the same local road, west of the subject site.
- 1.4. The Heath Golf Club is immediately north of the site, within the pNHA. There is a single storey clubhouse associated with the golf club, which is visible from the site on the opposite side of the road.
- 1.5. The general description of the locality is rolling countryside punctuated by mature trees. Heath House, a protected structure, is 250metres southeast of the site. The roadside boundary is a low stone wall that originally formed the boundary of Heath House.

## 2.0 Proposed Development

- 2.1. The proposed development can be described as a rural dwelling house, domestic garage, septic tank treatment system, and access. The dwelling is two storey, with four bedrooms (266sq.m.with a height of 8metres). It involves the demolition of part of the demesne wall.
- 2.2. A revised house design was submitted as part of the further information, with similar dimensions to the original proposal with changes to the façade.
- 2.3. The proposed services are a group water scheme for water supply, onsite soak pits for the surface water, and an onsite sewage treatment plant.

## 3.0 Planning Authority Decision

### 3.1. Decision

Laois Co.Co. granted planning permission for the proposed development subject to 15No. standard rural housing conditions relating to effluent treatment.

### 3.2. Planning Authority Reports

#### 3.2.1. *Planning Reports*

The planning report recommended a refusal because the development will have a negative visual impact on the curtilage, attendant grounds and setting of the Protected Structure. It would be contrary to Policy BH5 of the Laois County Development Plan 2017-2023 which seeks to protect the curtilage of the protected structures.

The recommendation to refuse was overruled by the Senior Planner because of the distance between the site and Heath House, the extensive amounts of vegetation, the redesign of the dwelling, the proposed landscaping, the deep building line of the dwelling, and the presence of signature trees adjacent to the development.

#### 3.2.2. *Other Technical Reports*

No reports received.

### 3.3. Prescribed Bodies

No reports received from prescribed bodies who were notified of the proposal by the planning authority.

### 3.4. Third Party Observations

The owner of Heath House objected to the proposed development on the following grounds:

- Visual amenity of the Heath
- Negative Impact on Heath House

- Contrary to rural housing policy
- Negative precedent.

## 4.0 Planning History

There is no relevant planning history relating to the subject site.

## 5.0 Policy Context

### 5.1. Development Plan

Laois County Development Plan 2017-2023

#### **Section 2.6 RURAL HOUSING STRATEGY**

Laois County Council's rural housing policy has had careful regard to national advice and guidelines as set out in the National Spatial Strategy and Sustainable Rural Housing: Guidelines for Planning Authorities (DEHLG, 2005) and also including the Habitats Directive with regard to Appropriate Assessment and the Planning System and Flood Risk Management: Guidelines for Planning Authorities (DoEHLG, 2009).

#### **2.6.1 Rural Area Types**

In accordance with the NSS and Sustainable Rural Housing: Guidelines for Planning Authorities (DEHLG, 2005) document, the county has been defined into different rural area types based on different development demands and needs. These areas are described below and the extent of each is shown on the Rural Settlement Strategy Map. As per Table 4.4 and the relevant map the site is located in an Area Under Strong Urban Influence. According:

*It is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as 'rural areas under strong urban influence'. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and normal proper planning and sustainable development criteria. It is an objective of the Council only to permit single houses in the area under strong urban influence to facilitate those with a local rural housing need in the area, in particular those that have lived in a rural area.*

*The Council recognises the needs of local rural people who wish to live or work in the area in which they grew up. The following three criteria arise in assessing applicants under this category:*

*a) The application been made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands; or*

*b) the applicant is engaged in working the family farm and the house is for that persons own use; or*

*c) the applicant is working in rural activities and for this reason needs to be accommodated near their place of work; or d) the application is being made by a local rural person(s) who have spent a substantial period of their life living in the local rural area, and, who for family and/or work reasons need to live in the rural area.*

**BNH 17** The Great Heath of Portlaoise The Great Heath or The Heath is a rare example of unenclosed natural grassland in Ireland interspaced with small lakes and turloughs. It has one of the most sensitive and valuable landscapes in laois. It is unique as a natural areas (one of the last heathlands to develop in Europe , grazed but unfertilized for hundreds of years , a geological area (a rare example of karst and wetland ecosystem), an archaeological area, an ecological area , a historic area and a widely used amenity area. The area has many interested stakeholders and it requires a study to develop a Landscape Conservation Assessment which would provide a framework for its protection and development into the future.

#### **Appendix 7: Rural Design Guidelines**

### **5.2 National Planning Framework**

5.2.1. **Policy Objective 19** is of relevance to the proposed development. It requires the following: '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’.

#### 5.2.2. **Sustainable Rural Housing Guidelines 2005**

A number of rural area typologies are identified within the Guidelines including Areas under Strong Urban Influence, Stronger Rural Areas, Structurally Weak Areas and Predominately Dispersed Settlement Areas.

The site is located within an Area Under Strong Urban Influence as identified within the Guidelines as illustrated within the attached presentation document. The guidelines refer to the indicative nature of the Map and state that further detailed analysis of different types of rural areas would be carried out within the Development Plan process.

The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. This area is identified as a rural area under strong urban influence, due to its proximity to the immediate environs or close commuting catchment of large cities and towns where strict control on housing development must be applied. 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.

With respect to sterilisation agreements the Guidelines state, “In areas where very significant levels of rural housing development have taken place on the edges of cities and towns and where such areas may be tending to become overdeveloped, such agreements have provided a useful tool in enabling planning authorities to support rural generated development on the one hand while avoiding over development of an area on the other. However, the inflexible nature of such agreements limits their usefulness except in highly exceptional circumstances.”

**Section 3.3.3** deals with ‘Siting and Design’.

## 5.2. **Natural Heritage Designations**

### ***Proposed Natural Heritage Area***

SITECODE 000881

The Great Heath of Portlaoise is located on the opposite side of the road to the subject site.

The site is 6.5km from the River Barrow/ River Nore SAC (southeast of site).

### 5.3. EIA Screening

Having regard to the nature, scale and extent of the proposed development, the site does adjoin a proposed Natural Heritage Area, however there is an absence of any connectivity to any sensitive location, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development and 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

Marc Hussey of Heath House, has taken this appeal. A summary of the appeal is as follows:

- The Planner's recommendation to refuse was overturned to a grant, and the recommendation related to the negative impact of the proposal on the Protected Structure. It is unclear why the Planner's Report was overturned. There are no proper planning and sustainable development grounds for the Board to uphold the decision for a one-off house within a historic landscape.
- The appellant has owned Heath House since 2006 and made significant investment into the house and its grounds. The proposal is an inappropriate form of one-off housing. The proposal will also result in the demolition and reduction in height of a substantial length of existing historical boundary wall.
- **Context:** The appellants house is Heath House a Protected Structure located to the south-east of the subject site. It dates from the 1790s. The adjoining lands are now in separate ownership. The Heath is managed by the OPW. It is one of the last heathlands of Europe, a widely used amenity of high amenity value. It is a policy of Laois Co. Co. under policy N11 to protect the National

Heritage Areas. Heath House is identified in the NIAH as Regionally Important and is described as a Detached seven bay two storey Georgian House c 1770.

- **Planning History:** There is no recent history. There have been a number of dwellings permitted to the west of the site, but their visual context is different in terms of the Heath.
- **Contrary to Laois Co. Co. rural housing policy :** The site is located in an area under Strong Urban Influence. Policy CS44 states rural housing should not detract from the county's natural landscape. The landscape character of the area, and the quality of the Heath amenity area must lead the Board to overturn the decision.
- **Sustainable Rural Housing Guidelines (2005):** The response to the further information made slight changes to the design of the dwelling and did not address the inappropriate siting and design issues associated with the proposal. The elevated site has no ability to absorb the design of the house into the landscape, as it will have an adverse impact on the visual amenity of the area.

The area between the golf club and the Church is the last material stretch of the Heath which remains undeveloped. Table 27 of the County Development Plan is referred to as it states the Heath is a Designated Amenity View and Prospect, and Policy AV2 stating 'Discourage development which would materially affect these amenity views and prospects. The proposal is piecemeal and unjustified one-off dwelling that will negatively impact on the visual amenity of the area and be contrary to Sustainable Rural Housing Guidelines and Appendix 7 of the County Development Plan and should be refused.

- **Negative Impact on Protected Structure:** Laois County Development Plan policy BH 5 states that Protected Structures are to be protected from works that would adversely affect or erode their special character. The subject site originally formed part of the curtilage of Heath House, and although in different ownership, the site must be viewed in this context. The proposed layout, design, scale, form and vehicular access will visually detract from the



setting of the Protected Structure. The stone wall will be reduced in height and partially removed, which will negatively impact on the setting. The site is located on an isolated site away from the farm and other buildings, due to the local topography and will be highly visible from the surrounding landscape.

- **Inappropriate works to the boundary wall:** Section 13.4.2 of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) which refers to changes to the curtilage, and the changes to the boundary wall, with design and siting of the new dwellinghouse will have a negative impact as per the photomontages submitted.
- **New Visual Impact on sensitive landscape and demesne landscape.** The proposal will have a negative impact on the Heath landscape and Heath House. Heath House is the most important historic structure on the landscape, and its setting has been unaltered since the eighteenth century. The stone tower of the former racecourse remains in place immediately adjacent to the proposed entrance and the ill-considered design will negatively impact upon the setting of the historic landscapes and structures.
- **Negative Planning Precedent** There are no dwellings in this portion of the Heath, and the proposal will set an undesirable precedent.
- **Conclusion** Permission should be refused on the basis of design, location, layout, form, mass and scale that would be seriously injurious to the rural setting, the protected structure, contrary to national and local planning policy on rural housing.

## 6.2. Applicant Response

The proposed dwelling is on family lands close to family members. The applicant is directly involved in the family farm and is an intrinsic member of the rural community. The applicants comply with local needs.

- **Principle of Development** The interpretation of the National Planning Framework would be that housing is required in the countryside subject to certain criteria should the applicants contribute to the local community and economy, and it is in keeping with NPO 19.

Under section 2.9 Rural Housing Strategy of the county development plan is defined by three categories, and the site is located in an area of 'Strong Urban Influence'. The applicant Ciaran Booth meets with all four criteria stipulated in the county plan for a house in a rural area, and the planning authority agreed in principle to the development.

Under ABP 307483-20 a very similar development in Fingal was granted by the Board.

- **Design, Layout and Impact on Heath House :** The subject site is 280metres form Heath House (a protected structure). The proposal is a two-storey dwelling, 8metres in height with a floor are of 266sq.m.. It is setback 40metres form the road, the finishes are contemporary and sympathetic to the area. When taken in conjunction with the existing developments in the area it results in a cluster type development. The applicant's immediate family and farm area clustered around the general area. A full landscaping plan is proposed.

The case ABP 310370-21 is cited in Dunboyne, Co. Meath whereby it was considered the separation distance of more than 200m means there is no impact on the appellant's property. It cannot be argued the proposal will have a negative impact on Heath House due to the 250metres separation distance.

Similarly, in case ABP 30745-21 it was noted the dwelling is well setback form the road and centrally located on the site, to avoid a overly prominent feature similar to a hilltop or elevated position. The photomontages accompanying the panning application demonstrate this. The site is not located in a sensitive landscape, the area is low land agricultural lands. Other cases cited as similar to the proposed development area PL-308321 in Co. Wicklow in an area of outstanding beauty whereby it was considered the proposed dwelling could be absorbed into the landscape. Another case cited is ABP-307588 for a dwelling at Glasson, Co. Westmeath beside a protected structure. The development in Glasson incorporated a breaking through a wall originally part of a protected structure.

The applicant's parents hired the previous owner of Heath House (Mr. Uinseann MacEoin) to design their house and was able to incorporate an

entrance without any negative impact on the wall and reuse the stone for wing walls. The family are conscious of being sympathetic to the heritage and landscape of the Heath.

It is acknowledged Heath House is a fine example of restoration and preservation. No aspect of the proposed development will impact on the built environment of Heath house. The wall referred to in the appeal forms part of the applicant's landholding and is not part of the protected structure. There is an emphasis in the applicants Architectural Assessment on viewed from the protected structure, being negatively affected. No person has a right to a view under the planning legislation. It is unfair of the appellant to assume all lands around Heath House should be sterilised to protect their views.

- **Alternative Sites/ Site Selection** : The following is the reasons the applicant chose the subject site:
  - The site has been gifted to him as part of the overall landholding.
  - Many other possible sites have inadequate sightlines
  - The subject site is prone to dumping and a house on the site will improve the aesthetics of the area.
  - It is not feasible for the applicant to be buy a site outside of the family landholding
  - The farm is within walking distance of the site.
  - All amenities are in walking distance school, church, GAA, gold club.
  - There are lands designated as proposed National Heritage Area (pNHA), owned and managed by OPW around the subject site.
  - The site complies with the development plan policies

## 7.0 **Assessment**

7.1 Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Compliance with Rural Housing Policy
- Layout and Design / Impact on Visual amenity
- Impact on Protected Structure
- Access
- Other Issues
- Appropriate Assessment

## 7.2 Compliance with Rural Housing Policy

The relevant planning policy relating to rural housing is included in the National Planning Framework, in particular Objective 19, and the Laois County Development Plan 2017-2023. The relevant extracts from the development plan are quoted above in Section 5 of this report. The subject site is located in an **Area of Strong Urban Influence**. The applicant is building a house on the family farm, and he works in rural activities on the farm and both applicants are an intrinsic part of the local community. There is no dispute that the applicants comply with the local rural housing needs development plan policy.

The applicants also comply with Planning Framework Objective 19, whereby in rural areas under urban influence, 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 will be facilitated.

## 7.3 Layout and Design

According to the planning file the site was selected because of the views from the site, its orientation, the historical trees within the site and in particular the proposed access. Much of the family's landholding is bounded by OPW lands, and according to the applicant direct access onto the public road is limited because gaining approval from the OPW over their lands has been difficult.

The siting of the dwelling is midway along a lengthy road frontage of an expansive open field punctuated by notable mature trees. The backdrop to the site is the

protected structure, Heath House, and further south the family farmyard screened by trees. The site is set within rolling countryside and bounded by a proposed Natural Heritage Area. In my opinion, the overall setting is exceptionally picturesque with open views from the public road, a stone tower and old stone wall fronting the site. It is an unspoilt and unique rural setting. Heath House and the family farmyard are setback a considerable distance from the public road and focal point of the views is the landscape and not the built environment.

The proposed dwelling, revised design submitted as further information, includes a two-storey dwelling and detached garage. The dwelling is five bays with stone column feature at the front door. The dwelling is 8metres in height, nap plaster finish and a slate roof with a total floor area of 262sq.m. The dwelling is setback circa 23metres from the edge of the road. The side elevation is 15metres deep creating a bulky footprint on the site.

Having regard to the landscape setting, location of the site within the landscape and the legibility of the proposed dwelling on the landscape, I consider the siting and design will create a significant impact when viewed from the surrounding area.

Furthermore, the dwelling will look out of place and incongruous to this unique rural setting. It is my opinion, the applicant has a substantial landholding and alternative more appropriate locations have not been investigated fully.

I accept the site is not located within a designated landscape area. However, it is bounded by a proposed Natural Heritage Area as discussed below. It is my opinion, the site is located on a landscape that is visually sensitive and vulnerable due to its openness, visibility and high scenic qualities, any new development on the subject site will be prominent and exposed, and will ultimately detract from the visual and landscape qualities of the area.

#### **7.4 Impact on the Proposed Natural Heritage Area**

The Great Heath of Portlaoise bounds the site to the north and further east. The approach to the site from the east is exceptionally scenic and vulnerable to development. On the opposite side of the road there is a golf course, which does not impact on the visual amenities of the area, however in my opinion, the single storey clubhouse in close proximity to the subject site, does create a significant material visual impact.

The proposed dwelling will be visible from within the proposed Natural Heritage Area. The proposed dwelling is sited prominently on the landscape to take full advantage of the surrounding views but will ultimately undermine the scenic qualities of the area and the proposed Natural Heritage Area because the proposed development will not integrate into the historic and scenic landscape irrespective of landscaping proposals.

Within the family landholding there is ample land to consider an alternative more appropriate location for the dwelling house. In my opinion, the proposed siting is wholly inappropriate and insensitive to the proposed Natural heritage Area, and highly sensitive landscape setting. The Heath is managed by the OPW. It is one of the last heathlands of Europe, a widely used amenity of high amenity value.

The relevant policy in the county development plan is :

***BNH 7 Protect Natural Heritage Areas (NHA) from developments that would adversely affect their special interests.***

***BNH 16 Work with relevant stakeholders such as the Office of Public Works (OPW) and local stakeholders to develop a Landscape Conservation Assessment in relation to the Heath and its attributes during the plan period.***

***BNH 17 The Great Heath of Portlaoise***

*The Great Heath or The Heath is a rare example of unenclosed natural grassland in Ireland interspaced with small lakes and turloughs. It has one of the most sensitive and valuable landscapes in Laois. It is unique as a natural areas (one of the last heathlands to develop in Europe, grazed but unfertilized for hundreds of years , a geological area (a rare example of karst and wetland ecosystem), an archaeological area, an ecological area , a historic area and a widely used amenity area. The area has many interested stakeholders and it requires a study to develop a Landscape Conservation Assessment which would provide a framework for its protection and development into the future.*

The development plan recognises the sensitivity of the landscape of Great Heath, which is a designated pNHA. According to the development plan, and Landscape Conservation Assessment of the area is to be carried out, and to my knowledge this has not been prepared to date. However, in my opinion the two-storey dwelling at the proposed location will form a discordant and obtrusive feature on the landscape which would seriously injure the visual amenities of the area because it would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity of the Great Heath.

## **7.5 Impact on the Protected Structure**

This is the crux of the third-party appeal. The third-party appellant owns Heath House a Protected Structure built in 1770 located to the south-east of the subject site. The subject site once formed part of the curtilage of Heath House and the front boundary wall was originally part of the Heath House estate. It is submitted the proposed development will result in a negative visual impact when viewed from Heath House and The Heath, it will undermine the setting of Heath House, and will materially impact negatively on the original boundary wall associated with Heath House.

The subject site is circa 280metres from Heath House. Heath House is not obvious from the subject site due to the dense landscaping and screening to the north of Heath House. Having regard to the significant separation distance between the subject site and the protected structure, I do not consider the proposal will materially impact on the protected structure or its curtilage.

In terms of the original boundary stone wall fronting the site, it was once part of the curtilage and demesne associated with Heath House. The boundary wall is now under separate ownership. The appellant claims the alterations proposed to the boundary wall will adversely affect the character of the protected structure. I would agree with the appellants that the reduction in height of the stone wall to one metre to provide sightlines and the inclusion of new capping and nap plaster piers, demonstrates an insensitive design response to the old wall, setting and a quality feature. In my opinion, the proposed alterations to the boundary wall will detract

immeasurably from the visual qualities of the visual, in context of the setting the stone tower and the Heath landscape.

## 7.6 Access

Access to the site is off a local road traversing The Heath. The required sight distance of 120metres in both directions is achievable at the proposed entrance.

## 7.7 Other Issues

A septic tank treatment system is proposed on site. The water supply will be from a group scheme. The proposed sewage treatment will be in line with EPA Guidelines.

## 7.8 Appropriate Assessment

The subject site is not within of adjoining a Natura site. The River Barrow/ River Nore is 6.5km south-east of the site. There are no direct connections to the hydrology of the SAC/SPA.

Having regard to the nature and scale of the proposed development and its proximity to 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.

## 8.0 Recommendation

- 8.1. I recommend the planning authority's decision to grant planning permission for the dwelling be overturned and refused. In my opinion, a more suitable and appropriate site can be considered on the family landholding for a dwelling house.

## 9.0 Reasons and Considerations

The site of the proposed development is located within 'Stronger Rural Areas under Significant Urban Influence' as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in Appendix 7 of the current Laois Rural House Design Guidelines, which Guidelines are considered to be reasonable. In addition, the site adjoins and overlooks, the Great Heath a proposed



Natural Heritage Area, a valuable landscape resource. Having regard to the topography of the site, the exposed positioning of the proposed development, together with its depth and scale of the proposed dwelling, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

---

**Caryn Coogan**

**Planning Inspector**

**4<sup>th</sup> of April 2022**