

FILE REFERENCE: PI 01.212862

DEVELOPMENT : House and associated works

LOCATION: Park, Tinryland, Co. Carlow

APPLICATION

Applicant Evelyn power

Planning authority Carlow County Council

P.A. reference PI 05/252

P.A. decision To grant permission

APPEAL

Appeal type Third party

Appellant Christy Mc Grath

Date of appeal 30/06/05

INSPECTOR Öznur Yücel-Finn

Date of Inspection 06/09/2005

1.0 INTRODUCTION

This is a third party appeal against the decision of Carlow County Council to grant permission for the above development on grounds of traffic hazard, location in a rural area outside any designated settlement, and contravention of County Development Plan on prevention of random rural development.

2.0 SITE AND LOCATIONAL CONTEXT

The appeal site is located approximately 3km south of Carlow town in a rural area. The access to the site is by way of a rather substandard county road which goes through a number of bends in the vicinity of the site. Further north and in the vicinity of the railway line the bends become right angled turns.

There is a group of older style dwellings in the immediate vicinity of the site. Most of these are located on the other side of the road and outside the bend. There is an existing dwelling immediately south.

The appeal site stated to be 0.21 ha is located on the western side of the road, just after a bend to the south and in close proximity of another to the north.

It is a wedge shaped site with a frontage of approximately 45m. the roadside boundary consists of mature trees /hedgerow.

3.0 PLANNING HISTORY

Permission was refused by the board for a development at this site twice before.

PL 01.110288	Permission refused by the Board on grounds of constitution of ribbon development in a rural area, and traffic hazard
PL 01. 124288	Permission refused for a dwelling on grounds of traffic hazard (copy of inspector's report attached)

4.0 PROPOSED DEVELOPMENT

The proposed development is for a large bungalow measuring 22m x 9m(approximately). It has quite a high roof though the pitch is indicated to be 35°.

It is located centrally in the site. Vehicular access is also centrally located and set back.

The applicant is stated to be from Park Tinryland. Her original family home is indicated to be the dwelling attached to the farm yard to the north.

The application submission includes a legal agreement by the owner of the property immediately south allowing the applicant to remove the ditch and to replace it by a wall along the lines staked out on the ground to a height of 6 ft.

5.0 PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 15 conditions. Of these condition number 14 imposed an occupancy condition for three years.

The report for the planning authority stated that the area engineer was satisfied with the sight lines. The site was characterised by inadequate percolation. A proprietary treatment system with polishing filter was recommended.

The applicant although currently living in Carlow, was a former resident of the are having lived at the Park for 37 years, and wished to return to are of her birth and rearing. The subject site was taken from the family holding. The report steed that there was no objection to the proposed development on a local needs viewpoint.

The extent of development in this area was uncharacteristic, with five houses across the road forming ribbon development. This constituted over development proposed facility the area.

The available visibility was extremely poor but provision was made to improve it through removal of the roadside hedge and the southern site boundary and replacement by a wall.

The report stated that it may be an option to request the applicant to explore the possibility of alternative site within the holding.

6.0 GROUNDS OF APPEAL

Submitted by a third party the main points of the grounds of appeal include:

- Permission was twice refused by the Board for development on this site
- The general speed limit applies is 80kph. The Carlow development plan requires 150m sight distance requirements for this standard road.
- Since 199 the volume of traffic has increase on this road due to its use as a short cut to avoid congestion in Carlow town.

- The access and egress from the site would make the proposed development more likely to endanger public safety by reason of traffic hazard.
- The council are in the middle of the proposed Local Area Plan for Tinryland where they are recommending that an area of 150 acres be zoned for housing. This will add considerable traffic to this road which is already congested, but will allow those who wish to move from Carlow and purchase a house in the village
- The site is located in a rural area outside any designated settlement or town, where the policy of the council is to restrict development to current needs of agriculture, other restricted categories of persons and those with a functional need to live in the area, while protecting the area from random development such as housing
- The proposed development if permitted would conflict with this policy on prevention of random rural development and would contribute to further such development

7.0 COMMENTS ON THE GROUNDS OF APPEAL BY THE FIRST PARTY

Submitted by a firm of solicitors the response of the first party to the points raised in the grounds of appeal include:

- In both of the previous cases the board refused permission on grounds of traffic hazard
- The applicant has now dealt with this issue and the measures proposed to provide adequate sightlines have been accepted by the area engineer
- The applicant disputes that there has been increase in traffic volumes, and that the argument that the proposed development would add to this
- The applicant intends to live in the dwelling house
- Rezoning of additional 150 acres is a matter for the planning authority who would ensure traffic safety
- The site closer to the town than the area being rezoned, and as such the traffic will not pass the applicant's site (copy of map attached)
- The applicant contends the bona fide of the appellant who has consistently objected to her proposals
- The applicant's niece and nephew were granted permission (04/513 and 04/514), but no objection was raised by the appellant on grounds of traffic safety

8.0 DEVELOPMENT PLAN PROVISIONS

The appeal site is outside the development envelope of Carlow town and as such the provisions of County Development Plan 203 apply.

The settlement strategy of the planning authority is to encourage housing in existing towns and villages where services are already available or can be economically provided.

In order to preserve the character of rural areas, to prevent the degradation of rural landscape resource. To protect the operations of agriculture and to ensure economies of servicing the settlement, it is a stated policy of the council that speculative one- off housing in rural areas of the county will not generally be permitted. However, in order to meet the housing needs of the indigenous population, a positive presumption will be given toward the building of one-off houses for their own occupation.

Special consideration will be given to returning emigrants whose family still live in the community.

9.0 RURAL HOUSING GUIDELINES

The appeal site is located within the area under the urban influence of Carlow. The appendix 3 of the Guidelines state

The key development plan objectives in Areas Under Strong Urban Influence should be on the one hand to facilitate the housing requirement of the rural community as identified by the planning authority in the light of local conditions, while on the other hand directing urban generated development to areas zoned for new housing development in cities towns villages in the area of the development plan.

10.0 ASSESSMENT

The appeal development is located in a rural area, ad under the strong urban influence of Carlow town. Therefore construction of a one- off dwelling is contrary to the County Development Plan policies and Rural Housing Guidelines and unacceptable in principle. The proposed development is also unacceptable in terms of contribution to ribbon development in an area under development pressure.

It is also important to note that the applicant's work place is in Carlow and she is the owner of dwelling in Carlow town. nevertheless, the applicant seems to qualify for a special consideration having grown up in the area and wishing to build on family land. The bona fide of this is not questioned by the planning authority. In the event of a decision to grant permission I would recommend an occupancy condition.

Therefore, and having regard to the previous decisions of the Board for similar development proposals at this site, the main issue to be determined in this case is whether the current proposal would overcome the reason for refusal in the previous cases, and in particular whether the proposed development is acceptable in terms of traffic safety.

The documents submitted in this case include a legal agreement with the owner of the adjoining property immediately south to allow the applicant remove the existing ditch / hedge and provide a new wall at a set back boundary. This would help the applicant achieve adequate visibility. These sight distances are acceptable to the area engineer.

Therefore, I consider the proposed development acceptable and recommend that permission be granted and subject to following conditions.

REASONS AND CONSIDERATIONS

Having regard to the applicant's ties to the local area, and proposals to achieve satisfactory sight lines, it is considered that the proposed development subject to conditions set out below would be acceptable in terms of traffic safety and would accord with the proper planning and development of the area.

CONDITIONS

- (1) The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings received by the planning authority on the 14th day of November 2003, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. (1) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least 10 years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

- (2) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (1) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

6. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act, 2000. The provisions of section 48 (10) (a) and (b) of the Act shall apply as respects an appeal to An Bord Pleanála in relation to the application of the Scheme.

Reason: It is considered reasonable that a contribution be made in accordance with a Development Contribution Scheme made for the area of the proposed development under section 48 of the Planning and Development Act, 2000.

Öznur Yücel-Finn
Senior Planing Inspector
19th Sept, 2015