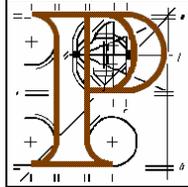


## An Bord Pleanála



## Inspector's Report

**Development:** To construct a dwellinghouse, domestic garage, pumping station, access via existing entrance and all ancillary works.

**Site Address:** Youghal, Newtown, Nenagh, Co. Tipperary.

### PLANNING APPLICATION

Planning Authority: North Tipperary County Council  
Planning Authority Reg. Ref.: 08/511138  
Applicants: William Ryan & Hazel Gallagher  
Type of Application: Permission.  
Planning Authority Decision: Refusal

### Planning Appeal

Appellant: William Ryan & Hazel Gallagher  
Type of Appeal: First party.  
Date of Site Inspection: 30/06/08

**Inspector:** John Desmond

## **SITE DESCRIPTION**

The application site is located c.8.5km west northwest of Nenagh town centre, c.1.5km east of the village Portroe, c.2km west of the village of Newtown and c.1.5km south of the shore of Lough Derg at Youghal Bay.

This rural area is characterised by rolling lands, mainly poorer agricultural lands, interspersed with traditional field boundary hedging and mature trees. To the west of the site is a row of semi-detached bungalows which appear to date from the mid-20<sup>th</sup> century. There is a detached bungalow of recent construction (since 2003) between the site of the proposed dwelling and the public road. The public road is the R494, which runs west from Nenagh and along the eastern shores of Lough Derg to Ballina / Killaloe.

The site connects to the public road via an existing gated entrance and a concrete laneway. The laneway is shared with the extended landholding of the applicant's father and a County Council treatment plant.

The site slopes down gently from west to east. It is mainly under grass and appears to be used for grazing cattle, however no cattle were on site at the time of inspection. The Youghal River (a large stream / small river), flows through the eastern section of the site, separating the grazed area from a small wooded section east of the river. The site contains a number of mature significant trees on the western side of the river, including oak and ash trees.

## **PROPOSED DEVELOPMENT:**

The proposed development is for the construction of a dwellinghouse, domestic garage, pumping station, access via existing entrance and all ancillary works.

## **HISTORY**

**Reg.Ref.no.04/51/0817:** Permission **REFUSED** to William Ryan Junior for the erection of a dwellinghouse, proprietary treatment system and entrance on part of the site subject of this current appeal.

**Reg.Ref.no.03/51/1049:** Permission **GRANTED** to Terry & Jenny Atwood for the erection of a dwellinghouse, proprietary treatment system and entrance on the adjacent site to the south of the site subject of this current appeal.

**Reg.Ref.no.PLC/21836:** Application by John O'Flaherty for outline permission for 2no. dwellings, etc., on the application site subject of this current appeal and on the adjacent site to the south (subject of reg.ref.no.03/51/1049). Outline permission **GRANTED** for 1no. dwellinghouse only (plus proprietary plant and entrance) on site 'A', the site adjacent to the south of the site subject of this current appeal (12/04/00).

## **PLANNING AUTHORITY DECISION**

To **REFUSE** permission for 3no. reasons, pertaining to (1) disorderly backland development, (2) traffic hazard, and (3) the development would be contrary to condition no.1 of grant of planning permission reg.ref.PLC/21836. In particular, I draw the attention of the Board to refusal reason no.2 which includes the **MATERIAL CONTRAVENTION** of objective TRANS 4 of the County Development Plan, 2004-2010.

## **REPORTS TO THE PLANNING AUTHORITY**

### Planning Officers report

The report of the Planning Officer is generally consistent with the decision of the Planning Authority to **REFUSE** permission, however reason no.4 of the refusal recommendation, pertaining to scale, massing and design, was omitted from the Authority's decision. The report notes an objection, although none appears on file and none are listed on the Council's planning website.

### Departmental Reports

Area Engineer : Refuse permission on basis of inadequate sightlines.

### Objections / Representations

None received within the prescribed period.

## **GROUND OF APPEAL**

### First Party appeal from Lewis Shinnors & Associates Architects on behalf of William Ryan and Hazel Gallagher

The grounds of appeal can be summarised as follows:

- The site is part of the applicant's father's lands (c.8ha) and the applicants therefore comply with 'local need'
- The house accessed off an existing concrete roadway serving the treatment plant of Portroe village and therefore complies with Policy HSG8: Rural Housing in Pressure Areas (variation no.1 of CDP 2004) point E
- It will not create an undesirable relationship with existing pattern of development in the area as there is existing very mature landscaping between the site and houses
- The site will access the regional road R494 via an existing roadway serving the Council's treatment plant. There are imminent plans to upgrade the treatment plans which will presumably increase traffic movements. The applicant fails to see how the addition of one dwelling affects greatly on the traffic flow.
- The application site plan shows sightlines in full compliance with NRA Guidelines.
- Re outline permission PLC/21836, this permission related only to site 'A' and did not require the site subject of this current appeal to be incorporated into site 'A'. It did not therefore impact on the subject appeal site.
- Outline permission PLC/21836 was not acted upon and expired in May 2005 and is not, therefore, an 'existing permission'. Permission was granted for a dwelling on a substantial portion of site 'A' under a subsequent application reg.ref.03/511049 and was constructed.
- The Planning Authority has previously granted permissions on what were proposed refusals on backland sites, e.g. reg.ref.07/511233 and reg.ref.06/510021.
- Photographs of entrance, sightlines, lane and site, and map identifying subject site, access / right-of-way, Council's treatment plant and applicant's father's land are attached.

## RESPONSES

None received.

## POLICY

North Tipperary County Council Development Plan, 2004-2010 –

The application site is zoned ‘A’ Amenity Area - Policy HSG8 applies.

The application site is within the boundary of the Western Area Local Area Plan, 2006.

Specific objectives -

None noted.

Relevant Policies / objectives (North Tipperary County Council Development Plan, 2004-2010 / Western Area Local Area Plan, 2006):

The most relevant policies / objectives relating to the proposed development are, as follows:

Section 5.2.11 Housing in the High Amenity Area – Policy HSG 8(a) Rural Housing in High Amenity Areas

Policy TRANS 4: Preserving Road Capacity & Table 8: Regional Roads subject to Policy TRANS 4.

## RELEVANT MINISTERIAL GUIDELINES

**Mid West Region Regional Strategy & Regional Planning Guidelines, for the, 2004** – The guidelines distinguish between the 9no. different zones, focussed on the core area (Zone 1) around Limerick / Shannon / Ennis. The subject site is within Zone 2, identified as part of the Hinterland area surrounding the core. The Guidelines do not set out a strategy regarding rural housing but indicates that in zones other than ‘zones 1’, the balance of the location of housing provision should have regard to the broad thrust of the national Spatial Strategy and the Sustainable Rural Housing Guidelines and notes that if the population loss of existing settlements is to be reversed where it has occurred, some limitation will need to be placed on the extent of housing that is not settlement based.

**Sustainable Rural Housing, Guidelines for Planning Authorities, 2005** – The guidelines advise that the planning system take a more analytically based and plan led approach to sustain and renew established rural communities. They identify 4no. rural area types –

- Rural areas under strong urban influence
- Stronger rural areas
- Structurally weaker areas
- Areas with clustered settlement patterns

and suggest that planning authorities tailor their policies that respond to:

1. The different housing requirements of urban and rural communities
2. The varying characteristics of rural area

Map 1: Indicative Outline of NSS Rural Area Types -

**Box 2 – ‘Stronger Rural Areas’** – The key development plan objective [...] should be to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and the wider rural area. [...] (3) Carefully monitoring development trends to avoid areas becoming overdevelopment in terms of leading, for example, to extensive ribbon development.

#### Appendix 4: Ribbon Development

These guidelines recommend against the creation of ribbon development [...]. In assessing individual housing proposals in rural areas planning authorities will therefore in some circumstances need to form a view as to whether that proposal would contribute to or exacerbate ribbon development. [...]. Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:

- The type of rural area and circumstances of the applicant,
- The degree to which the proposal might be considered infill development, and
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.

#### ASSESSMENT

Having inspected the site and reviewed the file documents, including planning history, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Rural Housing Policy
- General design / visual impact
- Roads / traffic issues
- Site Size / Effluent Treatment
- Other Issues

#### Rural Housing Policy:

The proposed development is located in an area defined as a ‘stronger rural area’ under the Sustainable Rural Housing Guidelines, 2005. According to the said guidelines the key objective for such areas is to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and the wider rural area, but that development should be monitored to avoid overdevelopment of the rural area, as may be evidenced by ribbon development. The proposed development would be located in the rural countryside outside of any defined settlement or centre. The site is in a backland location to the rear of an existing row of 15no. houses along a c.270m length of public road. Having regard to the appendix 4 ‘ribbon development’ of the guidelines, I consider that the existing level of development along this specific length of roadway constitutes overdevelopment and that further development would exacerbate the current situation and would therefore be contrary to the Sustainable Rural Housing Guidelines.

The application site is located within the Lough Derg High Amenity Area and Council policy HSG 8(a) ‘Rural Housing in the High Amenity Area’ (under the North

Tipperary County Council Development Plan, 2004-2010 and 'Western Area Local Area Plan', 2006) applies. According to the report of the Council's Planning Officer, it would appear that the applicant submitted a birth certificate showing an address at Cloneybrien, Killaloe, Co.Clare (postal address in Tipperary) which was accepted under a previous application<sup>1</sup>. I could not locate the birth certificate on file and no map identifying the location of the address referred to the birth cert was submitted. The Board may wish to request a copy of the birth cert from the Planning Authority prior to making a decision on this appeal, however having regard to the report of the Council's Planning Officer, I do not consider it necessary to delay my recommendation. Although I have identified 'Cloneybrien' on the east side of Laghtea Hill between Portroe and Ballina, I cannot determine if the applicant's family's residence is / was within 5km of the application site. No details have been submitted about Hazel Gallagher. I am not satisfied that the either applicant has demonstrated compliance under policy HSG 8(a).

General design / visual impact:

The proposed dwelling is designed to appear as a single story dwelling, but provides a substantial floor space at attic level. The ridge height is indicated as 6.9m. The design reflects the simple style of vernacular rural cottages, with contemporary elements. The drawings suggest external finishes to be blue/black slate roof, smooth rendered walls with natural stone feature elements, however annotation does not state finishes to be used but indicates that they are to be agreed with client. At 255-sq.m gross floor area (stated by applicant), the proposed dwelling is considerably larger than traditional cottage dwellings. The proposed garage would have a ridge height of 6.6m and the sections indicate that the first floor level would have capacity to accommodate habitable floorspace. The garage would have a gross floor area of 80-sq.m (stated by applicant).

The site is situated to the rear (north) of an existing one-off bungalow dwelling fronting onto the R494. The site relatively flat and low-lying and there is mature hedging to the west (may be off site) and trees and shrubs to the north and east, both on and outside of the application site. There is also hedging along the southern boundary, but this is immature and relatively low in height. Overall, I consider the site to be reasonably well screened from view from the public road and the adjacent properties to the west and east.

The site slopes down from west to east, from the lane to the river. The proposed layout plans show spot levels on the site and laneway, but it is not clear what the existing levels are and whether they are to be significantly altered to accommodate the proposed dwelling and garage. The finished level of the proposed ground floor of the proposed dwelling and the proposed garage is indicated as 98.82, compared to a finished road level of 104.39 indicated on the R494 near the entrance to laneway site access.

I consider it unlikely that the proposed dwelling would be unduly obtrusive on this site during the summer / spring season, however, taken with the existing large number of dwellings in this area the proposed development would contribute to the suburbanisation of the rural character of this area of high amenity, which is already

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<sup>1</sup> It is not stated whether the birth cert is that of William Ryan or Hazel Gallagher, however I presume it is for Mr Ryan as he is the landowner's son and there is a letter on file confirming his attendance of a local school.

seriously eroded. Outside of the growing season, it is probable that the site will be open to view from lands to the east and perhaps from unexpected vantage points on the local road network to the southeast and east. Furthermore, there is no guarantee that trees on the site and on lands to the east and southeast, which currently provide good screening during the spring / summer, will be retained.

The site is located in an area where there would appear to be significant pressure for one-off housing development. The site is situated to the rear of an existing one-off dwelling fronting onto the R494 and east of a line of 14no. mature semi-detached bungalow dwellings and the development is proposed to gain access via an existing private entrance between the said line of dwellings. In my opinion, the proposed development constitutes backland development and a haphazard form of development and is not a desirable form of development in a rural area, particularly one designated as an area of high amenity. The proposed development would set an undesirable precedent for similar such development.

#### Effluent treatment:

It is proposed to connect the dwelling to the main sewer system via a proposed pumping station on the site. There is a treatment plant situated off site to the north, which the applicant indicates is a public system operated by North Tipperary County Council (this is neither contradicted nor confirmed by Council's Planner's or Area Engineer's reports). Should the Board decide to grant planning permission, the details of any such connection should be subject to the prior agreement of the Local Authority.

The site layout plan indicates 'all soakways' will connect to the proposed pumping station and from there to an existing manhole on the main sewer. Whether or not the existing public sewer is a combined sewer, all surface water from the site and development should be disposed of to soakways on site or to the adjacent river, subject to the agreement of the Local Authority.

#### Roads / traffic issues:

It is proposed to access onto the R494, the regional road between Nenagh and Ballina / Killaloe. The proposed access to the R494 is indirect via an existing laneway and entrance accessing the extended landholding (purported to be in the ownership of William Ryan Senior, applicant's father) and the Council's treatment plant.

The Planning Authority refused permission (reason no.2) on grounds of a traffic hazard arising from deficient sightlines. The First Party asserts that the entrance is an existing entrance which is used by the Council and that the proposed works to the Council's treatment plant will increase use of the entrance; and that sightlines are in full compliance with NRA guidelines. The sightline distance is not clear to me as there is a significant hard-shoulder at this location and the edge of the carriageway is poorly defined. Therefore I have to accept the report of the Council's Area Engineer which indicates that sightlines are inadequate on both sides of the entrance (c.55m).

Reason no.2 of the Planning Authority's decision to refuse also included the grounds of material contravention of policy TRANS 4, which is to resist development along the R494, a strategic route, that would reduce traffic safety or carrying capacity. It is reasonable to assume that the proposed development, taken with the significant number of existing entrances and properties already accessing onto this specific

stretch of the R494, would serve to reduce traffic safety by way of additional movements at the site entrance, and also further reduce the capacity of the R494 and would therefore be contrary to the aforementioned policy.

### Material Contravention

As already stated, the Planning Authority decision to refuse permission (reason no.2) included the material contravention of the County Development Plan, 2002. I would draw the attention of the Board to Section 37(2) of the Planning & Development Act, 2000, which sets out that, where a planning authority refuses permission on the grounds of material contravention, the Board may only grant permission where it considers that one of the 4no. criteria set out under section 37(2)(b)(i)-(iv) applies. In my opinion, none of the said criteria under section 37(2)(b)(i)-(iv) apply in this instance.

## **CONCLUSION AND RECOMMENDATION**

The proposed development, taken with the existing level of development in this area would constitute overdevelopment and be contrary to the Sustainable Rural Housing Guidelines; would detract from this designated area of high amenity associated with Lough Derg and would be contrary to policy HSG8(a) of the County Development Plan; and would constitute a traffic hazard and would be contrary to policy 'TRANS 4' of the County Development Plan to resist development along the R494 a strategic route. Permission should therefore be refused.

## **REASONS AND CONSIDERATIONS**

- 1 The proposed development, which is located in an area defined as a 'stronger rural area' under the Sustainable Rural Housing Guidelines, 2005, would be situated to the rear of an existing row of 15no. houses along a length of approximately 270 metres of a regional road, located in the rural countryside outside of any defined settlement or centre, and where the density of existing development along this length of roadway is such as to constitute overdevelopment. The proposed backland development would constitute the haphazard overdevelopment of an area designated area of high amenity associated with Lough Derg, where it is the stated policy of the Council to resist the development of houses under policy HSG8(a) 'Housing in High Amenity Areas' under the North Tipperary County Council Development Plan, 2004-2010 and 'Western Area Local Area Plan', 2006. The Board is not satisfied that the applicants have demonstrated that they comply with the criteria set out under Policy HSG8(a). The proposed development would therefore be contrary the Sustainable Rural Housing Guidelines, 2005, and to the proper planning and sustainable development of the high amenity area.
- 2 The proposed development would result in additional access / egress movements to / from the R494 regional road, a strategic corridor, via an existing vehicular entrance that does not achieve adequate sightline distance, at a location where there is a proliferation of existing vehicular entrances to residential and other properties. The proposed development would therefore endanger public safety by reason of a traffic hazard and would be contrary to the stated policy of the Council to resist development on that strategic corridor,

under TRANS 4 'Preserving Road Capacity' in the North Tipperary County Council Development Plan, 2004-2010, and 'Western Area Local Area Plan', 2006.

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John Desmond  
Inspectorate  
07/07/09