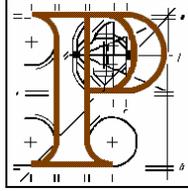


An Bord Pleanála



Inspector's Report

Development: House and effluent treatment system

Site Address Ballygibba North, Kilmallock, Co. Limerick

Planning Application

Planning Authority: Limerick County Council

Planning Authority Reg. Ref.: 08/2161

Applicant: Dolores O'Shea

Type of Application: Permission

Planning Authority Decision: Grant permission subject to conditions

Planning Appeal

Appellant: Mark O'Shea and others

Type of Appeal: 3rd party vs. grant

Observers: None

Date of Site Inspection: 12th February 2010

Inspector: Stephen O'Sullivan

1.0 INTRODUCTION

- 1.1 This report deals with a third party appeal against a decision of Limerick County Council to grant permission for a house in the countryside.

2.0 SITE

- 2.1 The site has a stated area of 0.2091 ha. It is in a rural area c.3km east of Bruree and c.3km north-west of Kilmallock. It lies on a county road whose carriageway is c.5.5m wide, about 100m north of its junction with the regional road R518. The site is under pasture. Its roadside boundary is marked by an established hedgerow. Its northern boundary is marked by a wooden post and rail fence. Its other boundaries were not marked on the ground at the time of inspection. The site and the surrounding land is flat. There is a very high level of one-off housing in the area, including a dormer bungalow on the adjoining land to the north of the site and a line of three houses along the regional road to the south.

3.0 PROPOSAL

- 3.1 The revised plans submitted to the planning authority as further information show a house with a roof ridge height of 7.8m. Its stated floor area is 243m². It would be served by a wastewater treatment system on the site that included an intermittent peat filter and a polishing filter. The hedgerow on the front boundary would be removed and a new wall set back from the road edge to provide visibility at the proposed access to the public road.

4.0 POLICY

- 4.1 The site is in an area identified in the *Guidelines for Planning Authorities on Sustainable Rural Housing* issued by the DoEHLG in April 2005 as a stronger rural area. Policy in such areas should strike an appropriate balance between development in the smaller towns and village and that in the wider rural area. Development in rural areas should be monitored to identify pockets where very significant rural housing is occurring leading to ribbon development, wastewater disposal difficulties and other issues. Appendix 4 of the guidelines recommends against ribbon development, which is described as a high density of almost continuous road frontage development for example where 5 or more houses exist on any one side of a given 250m of road frontage. Section 4.4 states that the removal of roadside boundary hedgerows should be avoided and alternative sites should be considered if the removal of a substantial length of hedgerow is required to provide a safe access.
- 4.2 The 2005 Limerick County Development Plan applies. The site is in a part of the county identified as having a strong agricultural base. Policy SP25 is to permit single houses in that part of the countryside where the application is made by a local rural person, or by the long term landowner or his family.

5.0 HISTORY

5.1 No previous planning applications on the appeals site were cited. There is an extensive planning history for adjacent sites of which only partial details have been submitted by the planning authority. The following details are noteworthy:

Ref. Ref. Nos. 02/1624 and 04/838 were a refusal and a subsequent grant of permission for the neighbouring site to the north, which is now occupied by a house.

Reg. Ref. 09/10 – the planning authority granted permission on 2nd April 2009 for a fourth house in the row along the regional road to the south of the site.

Reg. Ref. 08/2119 – an application was withdrawn from the planning authority for what would have been a fifth house along the regional road.

6.0 DECISION

6.1 The planning authority decided to grant permission subject to 12 conditions. Condition no. 3 restricted occupation of the house to the applicant or family members for a period of five years. Condition no. 4 referred to a section 47 agreement to sterilise the landholding from which the site was taken.

7.0 REPORTS TO THE PLANNING AUTHORITY

7.1 Submissions – Objections against the proposed development were lodged on grounds similar to those raised in the subsequent appeal.

7.2 Environment Section – the site is suitable for on-site treatment system and polishing filter.

7.3 Planner's report – This is an infill site and would only be the third dwelling along 250m of road frontage. Therefore it would not continue ribbon development and would not be over-development. The applicant complies with policy SP25. A two storey house is acceptable but the height should be reduced to 7.8m and the first floor gable windows should be omitted. Further information should be requested regarding the planning history of the landholding, sightlines and other issues. The report after the receipt of the further information and clarification recommended that permission be granted.

8.0 GROUNDS OF APPEAL

8.1 The grounds of appeal can be summarised as follows –

- The proposed development would provide another house at this location which would be over-development that would injure the rural character of the area.
- The appellants occupy houses on neighbouring sites and have had issues with drainage and another house would have an adverse effect. Photographs to this effect were submitted. The planning authority wrote to

the landowner in 2006 stating that more development could lead to an over-concentration of septic tanks in the area.

- The proposed house would be very large for such a small site. It would overlook neighbouring houses.
- The landowner undertook not to build any more houses in the course of application 04/234. The use of an access strip to the remaining landholding could be dangerous.

9.0 RESPONSES

9.1 The planning authority's response stated that

- the applicant is the landowner's sister;
- the design is acceptable in keeping with other house types in the area;
- the site is acceptable for the disposal of effluent;
- adequate sightlines are available at the entrance;
- a landscaping scheme has been submitted that will screen the house from adjoining properties and there are no first floor windows overlooking the adjoining dwellings.

9.2 The applicant did not respond to the appeal.

10.0 ASSESSMENT

10.1 The fact that the site is part of a landholding recently purchased by the applicant's brother is not relevant to the consideration of the application. Nevertheless the details submitted by the applicant indicate that she is a local rural person, albeit one who works in the city and currently lives in rented accommodation there, who does not own another dwelling and who wishes to build a house for her own occupation close to her parents in the village of Bruff c7km north-east of the site. There is no reason to doubt those statements. The proposed development would therefore be in keeping with policy SP25 of the county development plan and the applicant's personal circumstances would not justify refusing permission for the proposed development.

10.2 The site is not suitable for the treatment and disposal of domestic foul effluent. Annex C2 of the *Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses* issued by the EPA in 2009 notes that the cumulative impact of the increased nutrient load on groundwater quality in areas with high density housing is an issue, as is the experience of existing treatment systems in the area. The proposed house would be in close proximity to 4 existing houses depending on on-site wastewater treatment systems and to a fifth authorised house, all located on sites that were not much more than the standard size of 0.2ha for rural housing plots. The site assessment submitted with the

application notes that the drainage characteristics of the soil in the area are likely to be variable. This would explain the problems with neighbouring wastewater treatment systems asserted in the appeal and the failure of the ‘p-test’ carried out on the site, as well as the poaching observed on the site by the local planner, even though the results on the trial hole and ‘t-test’ were satisfactory. In these circumstances the proposed development would lead to an excessive concentration of houses depending on on-site wastewater treatment systems in a limited area. As such it would be prejudicial to public health and would give rise to an unacceptable threat to the quality of groundwater in the area.

- 10.3 The proposed house would be a large structure. Although some of its design details and the simplicity of its finishes would reflect rural forms, its depth and bulk, its hipped roof and its situation on a rectangular plot parallel to the road in line with another bungalow, means that it would have a suburban appearance. This conclusion is not effected by the fact that other similar houses have recently been built nearby. The development would require the removal of the hedgerow on the front of the site in order to provide a safe access to the public road, contrary to the advice at section 4.4 of the sustainable rural housing guidelines. Therefore it is not considered that the proposed house would be in keeping with its rural location. It would have a significant negative impact upon the character of the area, even considered in isolation. Furthermore the character of the surrounding area has already been effected by the number of one off houses that have been built there. The immediate vicinity of the site has been subject to very significant housing activity over recent years and is now characterised by a high density of development along a restricted stretch of road frontage. The proposed house would extend this pattern of development and would link the line of houses along the regional road to the south of the site with the bungalow to its north by reducing the agricultural land and the roadside hedgerow that currently provides some visual break between the housing plots. Therefore, in conjunction with the existing and authorised houses in the vicinity, the cumulative impact of the development would seriously injure the rural character and amenities of the area. The conclusion in the report of the local planner that it would not constitute over-development because it would not provide a line of five houses along 250m of the same road is not persuasive. The reference to that amount of houses in Appendix 4 of the sustainable rural housing guidelines is to provide an example of ribbon development. It is not a test of carrying capacity of the rural landscape. The house would clearly be part of a high density of nearly continuous road frontage, which is how ribbon development is described. Appendix 3 of the guidelines specifically warns that problems can arise with pockets of significant housing activity in stronger rural area. The appeal site is in just such a pocket. Furthermore the proposed development, when considered with the other sporadic one-off housing between Bruree and Kilmallock, would not help to achieve an appropriate balance which the guidelines say should be struck between housing in villages and the countryside in stronger rural areas. The proposed development would therefore contravene the provisions of the guidelines.

10.4 The proposed house would not overlook, overshadow or overbear any adjacent houses in a manner that would breach the standards on residential amenity that apply in suburban areas. The use of the remaining strip of land for access to farmland behind the ribbon development would not unduly threaten the safety of residents. The proposed development would not, therefore, injure the amenities of the other houses in the vicinity in any significant way other than be its erosion of the rural character of the area generally.

11.0 CONCLUSION

11.1 The proposed house would lead to an excessive concentration of wastewater treatment systems in a limited area and so would be prejudicial to public health and groundwater quality. In conjunction with the other houses in the immediate vicinity and those in the wider area between Bruree and Kilmallock, it would seriously injure the rural character and amenities of the area in a manner that was contrary to the advice given in the sustainable rural housing guidelines regarding stronger rural areas. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

12.1 I recommend that permission be refused

REASONS AND CONSIDERATIONS

1. The proposed development would lead to an excessive concentration, in a limited area, of houses served by on-site systems for the treatment and disposal of domestic foul effluent. It would therefore be prejudicial to public health and would threaten the quality of groundwater in the area.
2. According to the *Guidelines for Planning Authorities on Sustainable Rural Housing* issued by the DoEHLG in April 2005, the site is in a stronger rural area. The guidelines advise that housing development in such areas should be balanced between that in the villages and smaller towns and that located in the wider countryside, and that particular problems can arise with pockets of significant housing activity in rural areas. Having regard to the number of existing and authorised houses in the immediate vicinity of the site, the proposed development would be part of such a pocket of intense housing activity and would seriously injure the rural character and amenities of the area. Having regard to the number of one-off houses in the wider area between Kilmallock and Bruree, it is considered that the proposed house would not contribute to an appropriate balance between development in the smaller towns and villages in the area and that in the countryside. The proposed development would therefore be contrary to the provisions of the above ministerial guidelines and would be contrary to the proper planning and sustainable development of the area.

Stephen J. O'Sullivan
22nd February 2010