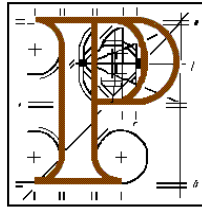


An Bord Pleanála



Inspector's Report

PL.22.243474.

DEVELOPMENT:-

Dwellinghouse, garage and ancillary site development works at Ballina Quay, Ballina, County Tipperary.

PLANNING APPLICATION

Planning Authority: Tipperary County Council.

Planning Authority Reg. No: 14/510097.

Applicant: Aoife Mc Gloin.

Application Type: Permission.

Planning Authority Decision: Refusal of permission.

APPEAL

Appellant: Aoife Mc Gloin.

Type of Appeal: First Party.

OBSERVER Harry Mc Keogh.

DATE OF SITE INSPECTION: 1st September 2014

Inspector: **Derek Daly**

1.0 SITE LOCATION AND DESCRIPTION.

The appeal site is located in the centre of the village of Ballina County Tipperary. Ballina is located at the southern end of Lough Derg and its outfall into the River Shannon. In the centre of the village is a bridge over the Shannon, Killaloe Bridge linking Ballina with the town of Killaloe in County Clare.

The site fronts onto a roadway which defines the southern boundary of the site. This road at its eastern end has a junction with the roadway leading onto the bridge linking the villages of Ballina and Killaloe. The southern boundary of the site adjoins the east bank of the River Shannon. To the west of the site is a restaurant and to the west of the restaurant is a hotel and its grounds. To the east of the site is a single storied dwelling known as the "Sidings" and there are three similar type dwellings located to the east of this dwelling. There are a number of windows on the western elevation of the "Sidings" dwelling facing towards the appeal site. All the properties along the southern side of the road have frontage onto the river.

The appeal site it would appear is a subdivision of the "Sidings" site. It has a road frontage approximately 20 metres and the site is roughly rectangular in configuration with a depth varying between 55 and 60 metres. There is a slight fall in level towards the river on the site though lands to the north of the appeal site rise in level. The western boundary had mature trees and planting along the boundary. The eastern boundary is defined by a low wall and fencing. There is a double gateway along the site's road frontage. There are no footpaths along this section of the road.

The site has a stated area of 0.115ha.

2.0 PROPOSED DEVELOPMENT.

The proposed development as submitted to the planning authority on the 28th of March 2014 is for a part single storey and part two storey dwelling with the single storey oriented to the north (road) and the two storey to the south (river). The main axis of the proposed dwelling is north south on the site. Four bedrooms, a home office and a garage are proposed on the upper level with living areas, kitchen and a games room on the lower level. The overall floor area of the proposed structure is 385m², 345m² for the house and 40m² for the garage.

The development provides for the lowering of site levels of the southern area of the proposed dwelling to accommodate the development. The overall height of the dwelling to roof ridge height on the northern /roadside elevation is 6614mm and 9150mm on the southern/river elevation. The design provides for minimal glazed areas on the eastern and western elevations.

The building line to the road is forward of the adjoining dwelling to the east and the building line to the river is set back behind the building line of the dwelling.

The site will be serviced by public mains water supply and public sewerage.

3.0 PLANNING HISTORY.

No recent planning history.

4.0 PLANNING AUTHORITY REPORTS.

The planning reports of the planning authority refer to the development plan provisions, to the zoning of the site and considering the development to constitute overdevelopment. There is also reference to a screening report under the habitats directive, which concludes AA is not required. Refusal was recommended.

5.0 PLANNING AUTHORITY'S DECISION.

The Planning Authority decided to refuse grant permission for the development for two reasons. The first reason for relates to Policy ENV of the county development plan and considers that the development would adversely impact on the visual amenities and character of the area due to its siting immediately adjacent to the River Shannon and due to its scale and massing and cumulative visual impact when viewed from the River Shannon. The second reason for refusal considers the development would be over development in the context of being a subdivided plot and would be injurious to the character of the area and visual and residential amenities.

6.0 APPEAL SUBMISSIONS.

6.1 FIRST PARTY APPEAL.

The appellant in the grounds of appeal states,

- The reasons for refusal have no substance and the development is a well-designed infill development.
- The policy ENV3 is a generic policy and has limited relevance to the proposal under consideration as ENV relates primarily to the open countryside.
- The Ballina Settlement Plan is of more relevance in setting out as a key objective to consolidate development within the village boundary in order to protect the area of high amenity within which the village is set.
- The proposal will not interfere with any view of the river or detract from views from the river or views from a scenic route.
- There is no basis given to why the development is considered over development.
- Two storey dwellings on relatively small sites are normal development on the riverside in Ballina.

- The Sidings is a substantial site of 0.33 ha but the proposed site of 0.115 ha is not an ungenerous site for a residential plot in a central location of the village.
- Reference is made to granting permission for a 7 apartment scheme on nearby river front by the hotel.
- The development is not out of character with existing development in terms of design, density, materials physical relationship to the river or any other relevant parameter.
- Reference is made to the Ballina Settlement Plan, the low density and spread out nature of the village and the overall objective to consolidate development. There is an absence of any policy or objective which would dictate preservation of the existing settlement structure.
- Views of the site from the road are negligible.
- The development is in character with existing development when viewed from the river and other side of the river.
- The development will not detract from the amenities of the adjoining properties.

7.0 RESPONSES TO GROUNDS OF APPEAL.

There are no responses.

8.0 OBSERVER SUBMISSIONS.

The observer Harry Mc Keogh in a submission dated the 6th of July 2014 indicates,

- The grounds of appeal do not address the reasons for refusal referring to the broad area of Ballina and not the immediate area a key amenity area in the heart of the village.
- The proposal would interfere with the view of the river, the area has buildings of a similar scale single storey appearance and the gaps between them are consistent.
- There is a strong clear line along the river bank up to the hotel.
- The proposal will remove trees between the existing dwelling and the Cherry Tree Restaurant and will give the impression of a terrace.
- The Sidings dwelling has always been a single storey dwelling on a large site and in context with existing buildings between the bridge and the hotel.
- The proposed development will transform the appearance of the area and its setting.
- The development represents overdevelopment in the context of its setting.
- The development will upset the existing balance, introduce a two storey element, create one large urban element, remove trees and be seriously injurious to the character of the area.

9.0 POLICY.

9.1 NORTH TIPPERARY COUNTY DEVELOPMENT PLAN.

The current Development Plan is the North Tipperary County Development Plan 2010-2016. The plan includes two volumes, Volume 1 outlines overall strategy and policy for the county at large and volume 2 are settlement plans for towns and villages throughout the county.

In volume 1 the lands immediately adjoining Lough Derg from Ballina northwards along the length of the lake shore are zoned A – Amenity.

Chapter 4 relates to environment and includes provisions in relation to the protection of vulnerable landscapes. In this Policy ENV 3 which relates to Vulnerable Landscapes indicates, that it is “the policy of the Council to resist development that would:

- (a) materially interfere with the view of the water/mountains from any point within a visually vulnerable area; or
- (b) materially interfere with the view to or from the lake or lakeshore;
- (c) break the skyline or
- (d) materially impact upon the character, integrity or uniformity of a vulnerable landscape or scenic area when viewed from scenic routes and the environs of archaeological or historic sites”.

9.2 BALLINA SETTLEMENT PLAN.

As part of the settlement strategy in volume 1 for the county, settlements are identified within the overall settlement strategy. Ballina is a designated settlement and a settlement plan for Ballina is included in the plan as volume 2

The site is zoned as existing residential in the zoning map accompanying the settlement plan.

In relation to settlement form it is indicated that Ballina has largely developed in a linear fashion along the shoreline of Lough Derg and the Shannon River with the town centre being focused around Killaloe Bridge. More recent development has taken place to the north of the historic town predominantly in the forms of residential dwellings. Ballina in conjunction with its twin town of Killaloe has been designated a Heritage town. The importance of tourism and tourist related activity focused on the River Shannon is referred to.

Among the Key Objectives identified for Ballina are,

- To facilitate low density, high quality housing appropriate to the village location to ensure adequate critical mass to maintain/improve local service provision.
- Reinforce the attractive setting of Ballina which exists at present by permitting appropriate and sensitively designed new development.
- Consolidate development within the delineated village boundary in order to protect the area of high amenity within which the village is set.

- Foster the creation of a more coherent settlement, with adequate critical mass to maintain/improve local service provision.

There is no specific objective relating to the immediate site or environs.

10.0 ASSESSMENT.

- 10.1 The proposed development which is the subject of this appeal is for a part single storey and part two storey dwelling. The overall floor area of the proposed structure is 385m², 345m² for the house and 40m² for the garage.

The development provides for the lowering of site levels of the southern area of the proposed dwelling to accommodate the development.

The primary issues in relation to this appeal relate to development plan policy / and considerations specific to the site.

10.2 DEVELOPMENT PLAN POLICY.

- 10.2.1 Within the overall context the lands adjoining the shoreline of Lough Derg are zoned with the highest scenic designation Amenity. There is, however, a settlement plan for Ballina where lands within the development boundary and which includes the current appeal site are specifically zoned. The site is located within an area zoned existing residential. Lands to the north of the appeal site are zoned commercial and mixed use and lands to the south nearer to Killaloe Bridge are zoned amenity. The zonings in the settlement plan for the appeal site and area reflect the current range of land uses on the site and area.

In this context, given the existing residential zoning, the proposal to consider the construction of a new dwelling is reasonable. The amenity zoning as indicated in the county development plan is more appropriate to consider in the context of lands outside of settlement development boundaries and there are specific areas within the development boundary which have the specific zoning of amenity and it does not apply to the current appeal site. The principle of new residential development on the appeal site is therefore reasonable.

Notwithstanding the residential zoning the site is a sensitive site in the context of its proximity to Lough Derg and any development should reflect that sensitivity. Issues relating to siting and design will be assessed in the context of site specific considerations.

10.3 SITE SPECIFIC CONSIDERATIONS.

- 10.3.1 Siting and Design.

The proposed development as submitted to the planning authority on the

is for a part single storey and part two storey dwelling with the single storey oriented to the north (road) and the two storey to the south (river). The main axis of the proposed dwelling is north south on the site. The proposed dwelling is a modern design and construction.

The development in the vicinity is modern in design and construction and in particular to the south of the appeal site single storied in design. The current proposal does include some element of two storied but land levels rise to the north of the appeal site and the properties to the north are at a higher ground level to lands further south. I consider that a two storied building can be accommodated on the appeal site. Further north the hotel which is at a higher relative level is two storied. To minimise impact the level of the site is lowered to reduce any potential obtrusive visual impact and the roof ridge level will be relatively proximate to the ridge line of the roof of the house to the south.

The site is part of a sub divided site and has less road frontage than other house sites in the vicinity. The site however is still of an adequate width, depth and area to accommodate a dwelling in particular on a site where mains public water supply and drainage are available. In the context of a site within a serviced urban area, plot ratio and site coverage are relatively low the development is not, I consider, overdevelopment.

In relation to impact on the visual amenities of the area, the site retains the same approximate set back from the lakeshore to other properties, which is of importance in the context of views from the south. Viewed from the south and the road leading to the site I do not therefore consider that the development will impact on visual amenity.

In relation to views from the other shore/western shore of the river it is important to note that the river is a wide channel and the addition of an additional building block will not impact on the scenic amenities of the area. There is a larger building form to the north, the hotel, which is of greater visual prominence. It is not unreasonable that in an urban type context that building blocks will occur and infilling within an existing pattern of development will not detract therefore detract from the character of the area.

The design of the dwelling has taken into consideration potential impacts on the amenities of adjoining properties. Overlooking or the potential to overlook has been minimalised or avoided.

The dwelling in floor area is relatively large but in the context of an urban site serviced by piped services the site is relatively large and can accommodate the scale of dwelling proposed. The development provides for amenity areas to the front and rear which are of an adequate size and area.

The main issue of concern is the potential loss of established trees and planting on the site, in particular on the northern side of the site in proximity to the northern boundary. It would in the context of a grant of permission be desirable to require a survey be carried out in advance of any construction

works to agree a landscaping proposal for the site which would provide for and include the retention of the maximum level of existing trees and planting.

10.3.2 Services.

The proposed development will be serviced by a public water supply and public drainage and no issues arise in this regard. The site fronts onto a road and there is adequate sightline visibility available.

11.0 **APPROPRIATE ASSESSMENT.**

11.1 **Appropriate Assessment – Screening.**

The site is not located within a Natura 2000 site. It is however located within 1.3 kilometres of the Lough Derg SPA and 0.4 kilometres of the Lower Shannon cSAC site code 002165.

In considering this matter the main issue to be addressed is whether the proposal as submitted will not adversely affect the integrity of the sites concerned.

The Lough Derg SPA covers a large area with diverse conservation objectives and a number of ecological features mainly relating to the avian species. The site is a residential site and is serviced by mains drainage. The site is not located within a flood zone. There is no potential pathway link from the appeal site to species related to the aquatic and riparian environment.

I conclude that there will not be or anticipated to be any significant negative impact on the SPA or qualifying interests arising from the proposed development

I am also satisfied that the proposed development individually, and in combination with other plans or projects would not be likely to have a significant effect on the European site. I therefore consider that there is not a requirement for NIS in relation to this development.

The Lower River Shannon cSAC covers a large area with diverse conservation objectives and a number of ecological features mainly relating to the aquatic environment and water based flora and fauna species. The site is a residential site and is serviced by mains drainage. The site is not located within a flood zone. There is no potential pathway link from the appeal site to habitats and species related to the aquatic and riparian environment.

I conclude that there not be or anticipated to be any significant negative impact on the cSAC or its conservation objectives or qualifying interests arising from the proposed development

I am also satisfied that the proposed development individually, and in combination with other plans or projects would not be likely to have a

significant effect on the European site. I therefore consider that there is not a requirement for NIS in relation to this development.

12.0 CONCLUSION AND RECOMMENDATION.

Having considers the issues arising, county policy the proposal as submitted is satisfactory. I would therefore recommend that permission be granted for the reasons and considerations set out hereunder:

REASONS AND CONSIDERATIONS.

Having regard to the existing pattern of development in the area, the zoning and provisions of the Ballina Settlement Plan, it is considered that the proposed development subject to compliance with the conditions set out would not adversely impact on the amenities of the area, would not seriously injure the amenities or depreciate the value of properties in the vicinity of the site and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS.

1. The development shall be carried out in accordance with the plans and particulars lodged with the application and received by the planning authority on the 28th of March 2014, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black in colour.

Reason: In the interest of visual amenity.

3. The site shall be landscaped in accordance with an overall scheme of landscaping, details of which shall be submitted to the planning authority for written agreement, and such agreement obtained within three months of the date of this order. In particular the landscaping scheme shall submit details of existing trees and planting on the site which I is proposed to retain and proposals to safeguard their retention in the construction phase The scheme shall also include a timescale for its implementation.

Reason: In the interest of visual amenity.

4. 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 orderly development.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. The entrance to the site shall be located in accordance with the detailed requirements of the planning authority. Surface water arising from the site shall not be permitted to drain onto the adjoining road. The wing walls forming the entrance shall not exceed one metre in height and shall be constructed of sod and stone material similar to roadside boundary

Reason: In the interests of traffic safety.

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 contribution shall be paid prior to the commencement of development or in such phased payments the planning authority may facilitate. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the Scheme.

Reason: It is a requirement 48 of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Derek Daly

4th September 2014

Inspectorate.