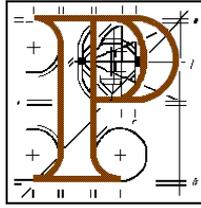


An Bord Pleanála



Inspector's Report

PL 91.244076

DEVELOPMENT: -

Outline permission for construction of a house and associated works at Rathmale, Mungret, County Limerick.

PLANNING APPLICATION

Planning Authority: Limerick City and County Council.

Planning Authority Reg. No: 14/956.

Applicant: Seamus Hayes.

Application Type: Outline permission.

Planning Authority Decision: Refuse outline permission.

APPEAL

Appellant: Seamus Hayes.

Types of Appeal: First Party against refusal of outline permission.

DATE OF SITE INSPECTION: 6th January 2015.

Inspector: Andrew Boyle.

1.0 THE SITE

The site is located in a semi-rural area in the townland of Rathmale near the village of Mungret, approximately 6 kilometres to the southwest of the centre of the city of Limerick. The site is part of an uneven field which is currently in grass and areas of native scrub. On its southeast side it has a frontage of 20.497 metres onto a minor public road, on the opposite side of which are a bungalow and a dormer bungalow. It extends back from this road in a northwesterly direction by an average distance of about 440 metres. It has a stated area of 0.09 hectares. On its southwest side it is intended to retain a 3 metre wide access to the remainder of the field of which it forms a part. Beyond this access is the site of a small mid-20th century bungalow with an extensive side plot intervening between it and the proposed field access. On its northwest side the site is open to the remainder of the field of which it forms a part. On its northeast side the site adjoins that of a modern bungalow.

The site boundaries consist of an embankment surmounted by a native hedgerow along the road and a 2 metre high concrete blockwork wall where it adjoins the site of the bungalow to the northeast. It is otherwise open to the remainder of the field and to the proposed field access.

2.0 THE PROPOSED DEVELOPMENT

It is proposed to build a house at a distance of 16.5 metres back from the public road. The house is shown to be rectangular in plan, measuring 14 metres by about 9 metres. No further detail is given on the house, as the application is for outline permission, only. A recessed access would be opened centrally on the road frontage and this would lead into a short central driveway which, in turn, would open into a large parking area in front of the proposed house. The drawings show that sight distances would be available for 90 metres to the north and 70 metres to the south.

The house is intended for sale, rather than for the applicant's own use.

3.0 THE PLANNING AUTHORITY'S DECISION

On 4th October 2014 Limerick City and County Council refused outline permission for this development for one reason. This reason noted the

location of the site in an area zoned for agricultural purposes in the Southern Environs Local Area Plan, 2011 – 2017. The proposed residential development would contravene this zoning and therefore would be contrary to the proper planning and sustainable development of the area.

4.0 RELEVANT PLANNING HISTORY OF THE SITE

Under the planning authority's Reg. Ref. 12/970, outline permission was granted to the present applicant for the construction of a house, vehicular entrance and connection to the public sewer. Condition 3 of this outline permission imposed a first occupancy limitation to the applicant and his immediate family for a period of 7 years following completion of the house.

5.0 PLAN PROVISIONS

5.1 The Limerick County Development Plan 2010 - 2016

The site lies within the functional area of Limerick City and County Council. Having previously been part of the county area, the site remains affected by the provisions of the Limerick County Development Plan, 2010 – 2016. The development plan is presented in four volumes. Volume 1 is the written statement. Volume 2 consists of maps. Volume 3 is the record of protected structures. Volume 4 consists of the strategic environmental assessment and appropriate assessment.

Chapter 3 of Volume 1 of the development plan is on Urban and Rural Settlement Strategy. Part 2 of this chapter is on rural settlement strategy. At subsection 3.6.1 the relevant content of the National Spatial Strategy is reviewed. The four different types of rural area specified in the Strategy are noted, namely

- Rural areas under strong urban influence.
- Stronger rural areas.
- Structurally weak areas.
- Areas with predominantly dispersed settlement patterns.

It notes that in stronger rural areas, the strategy suggested that the extensive village and small town structure has much potential in

accommodating additional housing development, catering for persons working in larger cities and towns, but desiring a rural lifestyle.

At subsection 3.6.2, the relevant content of the Sustainable Rural Housing Guidelines for Planning Authorities is noted. The Guidelines recommend the management of pressure for overspill development from urban areas in the rural areas closest to the main cities and towns, such as the gateways, hubs and other large towns.

Section 3.9 of the development plan is on Rural Settlement Policy.

Policy RS P1 is to provide for the development of sustainable rural housing in the county in accordance with the Sustainable Rural Housing Guidelines.

Policy RS P2 is to ensure that the provision of rural housing does not detract from the county's natural and built heritage, economic assets and environment. The planning authority will have regard to the relevant development plan objectives.

Policy RS P3 is to apply a presumption in favour of granting planning permission to applicants who are rural generated housing where the qualifying criteria as set out in objectives RS 01 to RS 08 are met and where standards in relation to siting, design, drainage and traffic safety set down in the Plan are achieved.

At subsection 3.9.1, the development plan adopts the rural area types set out in the National Spatial Strategy and the Sustainable Rural Housing Guidelines for Planning Authorities. Map 3.2 shows Areas under Strong Urban Influence, Areas of Strong Agricultural Base and Structurally Weak Areas. However, the appeal site would not be located in any of these three types of area, but rather is shown to fall within the Limerick City Environs.

Chapter 1 of Volume 1 consists of an Introduction. Subsection 1.8.2.3 is on Local Area Plans. These plans are noted to be supplementary to the county development plan and to contain more specific land use and zoning information for the city districts, towns and villages. This subsection contains a list of 18 local area plans, amongst which is the Southern Environs Development Plan 2005.

5.2 The Southern Environs Local Area 2011 – 2017

This local area plan superseded the earlier local area plan specified in the county development plan. The appeal site lies within the area of this local area plan.

Chapter 3 of the local area plan is on housing. Section 3.5 is on Rural Housing. It is noted that part of the Southern Environs Area is zoned agriculture. In these areas it is a priority to retain the rural character. Objective HO6 on Rural Housing in the Southern Environs is to permit housing on agriculturally zoned land for the long term habitation of farmers and the sons or daughters of farmers, only, and subject to the terms and conditions of the rural housing policy as set out in the Limerick County Development Plan.

Chapter 9 of the local area plan is entitled Land Use Zoning. Subsection 9.2.1, on the Purpose of Land Use Zoning, notes that the proposed land use zoning map is included in appendix 2. The land use zonings would be used to guide development to appropriate locations and should be read in conjunction with the zoning matrix and the Limerick County Development Plan, chapter 10, on development management guidelines. The zoning map in appendix 2 shows the appeal site to be located in an area zoned Agriculture. This zoning objective applies also to the backland areas to which the appeal site is connected. The adjoining lands fronting onto the public road and those on the opposite side of the road are zoned Existing Residential. The zoning matrix is set out at Appendix 1 of the local area plan. Under the agricultural zoning objective houses are not permitted, with the exception of those for farmers or their sons or daughters.

6.0 THE APPEAL

This is a first party appeal against the planning authority's refusal of outline permission for this development. The appeal claims that the appeal site is "technically zoned "Agricultural" in the Limerick City Development Plan". It is an infill site located between lands zoned Existing Residential. It is noted that the entire road is a spur from the village centre and is predominantly zoned Existing Residential.

Previously outline permission was granted on this site under Reg. Ref. 12/970, but with a strict occupancy condition.

While the occupancy condition was initially acceptable to the appellant, his circumstances changed and he could no longer afford to build a house. The appellant sought a relaxation of the condition, but this was rejected by the planning authority.

The appellant applied for the present development making it clear that the house was no longer intended for his personal occupancy. Outline permission was refused. It had been suggested that an outline permission could be restricted to occupation by somebody who satisfied the local need criteria, but this was rejected.

The appeal concludes by noting the following factors

- The site is sustainable, being 400 metres from Mungret village centre and 3 kilometres from Limerick City Centre.
- The site is an infill site surrounded by lands zoned Existing Residential.
- The site is accessible to mains water and sewerage.
- The site would contribute to the capital cost of water infrastructure through development levies.
- Mungret village has been the focus of urban regeneration works in recent years and its development as a quality suburban village requires that quality sustainable housing should form part of its development strategy.

7.0 RESPONSE OF THE PLANNING AUTHORITY

The planning authority has responded to the grounds of appeal.

The response notes the agricultural zoning of the site in the Southern Environs Local Area Plan. It notes the policy to permit housing on agriculturally zoned land for the long term habitation of farmers and the sons or daughters of farmers, only, and subject to the terms and conditions of the rural housing policy as set out in the county development plan. The applicant does not come within the scope of this policy as it intended to sell the site on obtaining outline permission. Outline permission was granted to the appellant under Reg. Ref. 12/970 based on his extenuating personal circumstances at that time. The planning authority would not be in favour of a speculative permission on these agriculturally zoned lands.

8.0 ASSESSMENT

The appeal site is located on a county road which runs for a distance of approximately 620 metres from a junction 145 metres to the southwest of the appeal site in a straight line to Mungret village. This road, although it has public lighting and is of sufficient width for two oncoming vehicles to pass comfortably, is lacking in public footpaths. Despite this, there is a continuous ribbon of 17 houses followed by a football clubhouse on its southeast side. On its northwest side, a ribbon of four houses precedes the appeal site to its southwest. A further house succeeds the appeal site to the northeast and this is followed by field in agricultural use, with a road frontage of about two house plots. This is followed by three further house plots and then another field followed by a house followed by a small area of undeveloped land and then football pitches associated with the clubhouse on the opposite side of the road. Finally, there is a further house plot and some undeveloped land up to the junction with the R859 at Mungret village. In addition to this ribbon development, there are two cul-de-sacs off this road, one of them, with three detached houses, diagonally opposite the appeal site to its south.

As noted in the appeal, the sites on either side of the road are almost entirely zoned Existing Residential in the local area plan. Some exceptions are found at its northeastern end where the football pitches are zoned Open Space and Recreational, the corner site on the southeast side of the road is zoned Retail/Commercial and the clubhouse and adjoining hard court appear to be unzoned. However, in relation to the greater part of the road, and in particular, the southwestern end, the appeal site is unique in being zoned Agriculture. Even the other fields mentioned in the previous paragraph are zoned Existing Residential.

The zoning adopted by the planning authority in relation to areas of housing development in or directly adjoining agricultural areas in the Southern Environs Local Area Plan seems inconsistent. Those in the vicinity of the appeal site and elsewhere within the area of the local area plan are zoned Existing Residential, but just 150 metres to the southeast, an almost continuous ribbon of housing stretching about 1.3 kilometres along a county road is zoned Agriculture. Other lesser ribbons of housing within agricultural areas are also zoned Agricultural within the local area plan.

I consider that the appeal site and the 3 metre wide access being retained to the appellant's limited remaining agricultural holding to the rear, together just 23.5 metres of road frontage, are an anomaly and should also have been zoned Existing Residential. Accordingly, I consider that outline permission may be granted without a first occupancy condition. While the Board might consider the imposition of a condition under Section 47 of the Planning and Development Act, 2000, restricting the future development of the remainder of the appellant's small landholding, in my view the development of this backland area is a matter for another day to be controlled by the planning authority.

In its report on the planning application, the planning authority has carried out a screening assessment for appropriate assessment.

This is based on a standard format approach. Having identified the construction phase as residential, the format requires answers to a series of questions. These include the necessity for undertaking substantial works, the operating phase effects, the ex-situ effects, the likelihood of runoff, the need for abstraction and any displacement which might take place. The response to these questions is negative. The standard approach then continues by raising five standard questions in relation to Natura 2000 Sites. These are

- “1. Is the development in the relevant catchment of or immediately up/downstream of a watercourse that has been designated as a Natura 2000 Site?
2. Is the development within 1 kilometre of an SAC site with terrestrial based habitats or species?
3. Is the development located within marine or intertidal areas or within 5 kilometres of an SAC site whose qualifying habitats or species include the following habitats: Salmonid, Lamprey, Mudflats, Sandflats, Salt Marsh, Shingle, Reefs, Sea Cliffs?
4. Is the development within 1 kilometre of a Special Protection Area?
5. Would consideration of a number of significant projects nearby such as forested areas, quarries, wind energy, together with the proposed development, significantly increase the impacts listed above?

In the case questions 1 and 3 the answer is yes and this is a reference to the Lower River Shannon SAC. In response to question 5, it is noted that the house would be within a built-up area and would be served by the public sewer.

I confirm that the nearest European site is, indeed, the Lower River Shannon SAC (Site Code 002165) at a closest distance of about 2.1 kilometres to the north of the appeal site. There is also, at the same location, the River Shannon and River Fergus Special Protection Area (Site Code 004077). However, there is no obvious conduit between the appeal site and these European sites and I note also that the proposed development would be an infill house which would be served by both mains water and sewerage. I therefore conclude that having regard to the nature and scale of the proposed development and the nature of the receiving environment and the proximity to the nearest European sites, no appropriate assessment issues arise and I do not consider 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.

9.0 RECOMMENDATION

Having regard to the foregoing, I recommend that the planning authority's decision be reversed in this instance and that outline permission should be granted for the reasons and considerations and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the pattern of development in the area and in particular, the extensive frontage development and occasional in-depth development along the road, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the amenities of the area or of property of vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The plans and particulars to be submitted by way of a separate application for permission consequent shall include the following:
 - (a) A comprehensive site survey, to a scale of not less than 1:500, including contours at intervals of 0.5 metres, showing all existing boundaries and other features,
 - (b) a site layout plan to a scale of not less than 1:500 showing the layout of the house and driveways
 - (c) the finished ground floor level of the house by reference to existing site levels and road level at the proposed entrance,
 - (d) proposals for the landscaping of the site (including planting), and
 - (e) details of external finishes.

Reason: To enable the application for permission consequent to be fully assessed.

2. The southwestern and rear boundaries of the site shall consist of a double row of native hedging species, (e.g. holly, hawthorn, blackthorn, ash etc.) indigenous to the area. All planting shall take place in the first planting season following construction of the house.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. The building line shall be parallel to the road. The northeastern corner of the house shall be located on a straight line drawn between the southeastern corner of the house on the adjoining site to the northeast and the northeastern corner of the house on the adjoining site to the southwest.

Reason: In the interest of visual amenity.

6. The house shall be single-storey or of dormer construction, only.

Reason: In the interest of visual amenity.

7. The external finishes of the house shall consist mainly of plaster/dash. Any decorative detailing shall be limited in area and shall be carried out in natural stone local to the area. Full details of the material finishes shall be submitted with the application at permission consequent stage.

Reason: In the interest of visual amenity.

8. 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 as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 terms of the Scheme.

Reason: It is a requirement 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.

Andrew C. Boyle,
Senior Planning Inspector.

23rd January, 2015.

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