



An
Bord
Pleanála

Board Direction
BD-004461-19
ABP-304998-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 07/11/2019.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

1. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out, the Board is not satisfied that the proposed development individually, or in combination with other plans or projects, would not adversely affect the integrity of European Site (code: 002165) Lower River Shannon Special Area, in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from granting permission.
2. Having regard to the absence of information on the winter water table on site, the Board is not satisfied on the basis of the documentation submitted with the planning application, that the proposed development can be satisfactorily treated or disposed of on-site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3. According to the Clare County Development Plan 2017-2023, the site is located within a landscape designated as a 'Heritage Landscape' and also adjacent to a designated 'Scenic View'. Within these designations it is development plan policy to select sites to avoid visually prominent locations, to seek to protect sensitive areas from inappropriate development and to ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas. Having regard to the location of the site between a regional road and the river, which comprises a 'scenic view' and its proximity to the shoreline, it is considered that, the proposed development by reason of scale and bulk and including changes which would be essential to the site boundary to the regional road to provide vehicular access to the site, would be visible from the surrounding area, would impact negatively on the high amenity value of the scenic view, would interfere with the character of the landscape and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The proposed provision of a direct access from the proposed development, onto the adjoining regional road, would be contrary to Policy CPD8.5 of the Clare County Development Plan 2017-2023, which seeks to restrict such direct access points to certain categories of applicant. In addition, the proposed direct access point, taken together with existing development and multiplicity of entrances along this stretch of regional road, would endanger public safety by reason of traffic hazard having regard to the extra traffic generated and having regard to the proximity to an adjoining private laneway access point. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Note 1:

Having regard to the location of the site within an area under urban influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 and in a rural area under strong urban pressure, in accordance with the Clare County Development Plan 2017-2023, and to National Policy Objective 19 of the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence, such as in the current case, which states that it is policy to “facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area...having regard to the viability of smaller towns and rural settlements”, and having regard to the documentation submitted with the planning application and appeal, including confirmation of the locations of employment currently held by the applicants, the Board considered that the applicants did not demonstrate that they come within the scope of the housing need criteria as set out in the Guidelines or in National Policy for a house at this location in the open countryside, and that they have not demonstrated an economic or social need to live in a new house in this rural area, in accordance with national policy. Furthermore, the Board was not satisfied that the applicants’ aspirations for a new house, could not be satisfactorily met in an established smaller town or village/settlement centre. The Board therefore considered that the proposed development, in the absence of any definable or demonstrable need for the house, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would, therefore, be contrary to the Ministerial Guidelines, and to the over-arching national policy, notwithstanding the provisions of the Clare County Development Plan 2017-2023 and would, therefore, be contrary to the proper planning and sustainable development of the area. Notwithstanding this, the Board considered that this may be considered a new issue, in the context of the current appeal and having regard to the substantive reasons for refusal as set out above, it was decided not to pursue this matter further under the current appeal.

Note 2:

The Board noted the proposed reconfigured entrance which would be served via the adjoining private laneway, as presented by the applicants as unsolicited further information and at appeal stage. The Board was not satisfied on the basis of the documentation submitted with the unsolicited further information and appeal, that the applicants had provided sufficient detail confirming a right of use of this laneway, which falls at least partly outside of the red line as shown on the application documentation, or that they retain permanent control over the sightline to the north from the existing entrance across lands not in their ownership, or that the cumulative effect of traffic using this laneway from existing uses and the proposed dwelling would not constitute a traffic hazard at its junction with the regional road. However, having regard to the substantive reasons for refusal as set out above, it was decided not to seek any further information on this matter under the current appeal.

Board Member

Date: 07/11/2019

Chris McGarry