



Planning and Development Acts 2000 to 2019

Planning Authority: Tipperary County Council

Planning Register Reference Number: 19/600064

APPEAL by Nigel Kenny care of Stephen Dowds Associates, Town Planning Consultants of 5 Mary Street, Galway against the decision made on the 20th day of March, 2019 by Tipperary County Council to refuse permission.

Proposed Development: Construction of a single-storey, split level dwelling, the demolition and reconstruction of the existing boundary wall to the R494, the widening of the existing entrance, the construction of a new access driveway, the installation of a proprietary waste water treatment system and ancillary works at Derrycastle, Ballina, County Tipperary.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

1. Having regard to Policy T13 Strategic Road Network and Policy SS5: Housing on Strategic Regional Roads of the North Tipperary County Development Plan 2010 (as varied) to facilitate individual dwellings on strategic regional roads for an applicant that is an owner and operator of an agricultural/horticultural/equine activity on an area less than 20 hectares where it is demonstrated to be of a viable commercial scale and where existing or shared accesses are used where practicable and who have demonstrated a housing need, and are seeking to provide a home for their own occupation, the Board considers that the applicant has failed to demonstrate that he complies with the policy requirements of the planning authority for access onto the strategic route corridor (regional road R494). Accordingly, the proposed development would materially contravene Policy T13 and Policy SS5 of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is not considered that the applicant demonstrably meets the criteria for a house at this location, as set out at Policy SS4 of the North Tipperary Development Plan 2010-2016 (as varied); as the applicant would not appear to come within Category A, B or C of the policy. It is not considered that the applicant can be classified as a landowner of more than 20 hectares – given that the details submitted with the planning application indicate that the landowner owns less than half of that amount at this location. The proposed development would, therefore, contravene the policy of the development plan and would be contrary to the proper planning and sustainable development of the area.

3. The site of the proposed development is located in a Primary Amenity Area, as set out in Figure 7.1 and Policy LH2 of the North Tipperary County Development Plan, 2010-2016 (as varied). Having regard to the location of the site in proximity to the lakeshore, and between a regional road and the lake, which comprises a Listed View (V01), the proposed demolition and reconstruction of 320 metres of old demesne stone boundary wall, and to the absence of any consideration to the impact of the development when viewed from the lake (when screening deciduous trees were stripped of foliage), it is considered that, the proposed development would be visually intrusive, would seriously injure the visual amenities of the area, would interfere with the character of the landscape, would conflict with the policies of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to the location of the site in close proximity to Lough Derg, which is a designated Special Protection Area, which it is an objective of the development plan to conserve, the Board is not satisfied, in the absence of any information in relation to bird species which form the conservation interests of the Special Protection Area and in the absence of a Natura Impact Statement which deals with these issues, that the proposed development would not have an adverse impact on the Special Protection Area. In these circumstances, the Board cannot be satisfied that the proposed development would not have an adverse impact on the Lough Derg Special Protection Area in the light of its conservation objectives, and the Board is therefore precluded from considering a grant of planning permission in this case.

Maria FitzGerald

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019