



Planning and Development Acts 2000 to 2019

Planning Authority: Clare County Council

Planning Register Reference Number: P19/995

APPEAL by Stacey Ryan care of Michael J. Duffy of 1 Clós na hEaglaise, Kilfenora, County Clare against the decision made on the 24th day of March, 2020 by Clare County Council to refuse permission.

Proposed Development: Construction of a dwellinghouse and garage, including a wastewater treatment system, new road access and ancillary works, at Annagh, Miltown Malbay, County Clare.

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 the location of the site within a rural area under urban influence, and to National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks 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, it is considered that the applicant has not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19. The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would contravene the provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is in a rural location in an area under strong urban pressure, in an area where housing policy CDP3.11 of the current development plan for the area applies and is identified as such in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 where it is national policy to distinguish between urban generated and rural generated housing need. On the basis of the documentation submitted with the planning application and the appeal, it is considered that the applicant does not come within the scope of the criteria for a housing need necessitating a dwelling at this rural location in an Area Under Strong Urban Pressure and in an Area of

Special Control. The proposed development would, therefore, be contrary to the provisions of the Ministerial guidelines, be contrary to the policy of the planning authority, and contrary to the proper planning and sustainable development of the area.

3. It is an objective of the planning authority under CDP 13.7 of the current development plan for the area 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 and are designed and located to minimise their impact. The proposed development by reason of its siting, scale, layout and design would result in a visually prominent and obtrusive development on an elevated ridge line, which would adversely affect the character of the area and seriously injure the rural and scenic amenities of the area. The proposed development would be at variance with the design objectives and guidelines as set out in the Clare County Development Plan 2017-2023 and the County Clare Rural House Design Guide, 2005 and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to the provisions of the Code of Practice issued by the Environmental Protection Agency on “Wastewater Treatment and Disposal Systems serving Single Houses” (2009), the Board is not satisfied that wastewater generated by the proposed development could be satisfactorily treated or dispersed on this site, having regard to the ground conditions at the site and the presence of surface water drains within the site. It is considered that the proposal, notwithstanding the use of a proprietary wastewater treatment system, represents an unacceptable risk to the environment due to the potential for ponding of treated effluent at the percolation area and consequent impacts on the surface drainage network due to overland flow to the drainage network.

The proposed development would, therefore, conflict with the provisions of the Code of Practice of the Environmental Protection Agency, would result in a risk of environmental pollution, would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

5. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in both the east and western directions, and in close proximity to a heavily trafficked national route. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Dated this day of 2020.