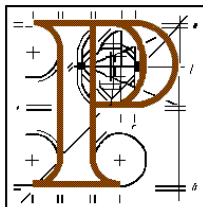


An Bord Pleanála



Inspector's Report

Site Address: Garrynderk South, Kilmallock, Co. Limerick.

Proposal: Mobile home for onsite living accommodation.

Planning Application

Planning Authority: Limerick City and County Council

Planning Authority Reg. Ref.: 15/562

Applicants: Timmy and Edel O'Reilly

Type of Application: Retention Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant: Timmy and Edel O'Reilly

Type of Appeal: 1st Party –v- Refusal

Observers: Robert and Teresa Fenton and Others.

Date of Site Inspection: 16th January 2016

Inspector: G. Ryan

1.0 SITE

- 1.1 The site consists of a triangular plot of land on the outskirts of Charleville, County Cork. It is located on a minor road where there is continuous one-off housing from the main R515 road up to the subject site on both sides of the road. The minor road forms the boundary between counties Cork and Limerick, with the subject site being within County Limerick.
- 1.2 The site itself accommodates a mobile home on a concrete base, a portakabin (housing a range of miscellaneous items), a 'portaloo' structure, a small shipping container, a parked van, and a range of miscellaneous items stored externally. There is a vehicular entrance to the local road.
- 1.3 At the time of my site inspection, the mobile home was not occupied, nor did it appear to be fitted out for occupation at this time.
- 1.4 The stated area of the site is 0.06ha.

2.0 PROPOSAL

- 2.1.1 The proposed development consists of retention of the following:
 - Mobile home [northwest of site]
 - Concrete base for mobile home
 - Portakabin [centre of site]
- 2.1.2 The gross floor area of structures for retention is given as 102m².
- 2.1.3 The application form states that the applicants and their family have been living in rented accommodation for the past 2 months because they had been told to vacate the [subject] site. The application form notes an enforcement order having been issued for the removal of a mobile home and caravan from the site.
- 2.1.4 The applicants have been living at the subject site on and off for the past 8 years. Both applicants are stated as being unemployed. This is the only accommodation they have. The applicant(s) were born and reared in Kilmallock, with family in the area. The applicant is the stated owner of the site.
- 2.1.5 Proposed water supply is by bringing water onto the site. Wastewater management is proposed by way of a chemical unit.

3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY

3.1 DEPARTMENTAL REPORTS

3.1.1 Environment Section

- 3.1.2 The proposal of a chemical toilet to serve the mobile home is not satisfactory. Recommends requesting further information relating to on-site wastewater treatment.

3.2 REPRESENTATIONS

- 3.2.1 Objections were submitted by the current observers and from Margaret Mullins

3.3 PLANNING OFFICERS REPORT

- 3.3.1 Notes that an Enforcement Order has been issued for the removal of the mobile home and caravan from the property.
- 3.3.2 'Screens out' for appropriate assessment under the Habitats Directive.
- 3.3.3 The principle of development is not acceptable as a permanent development given the temporary nature of the structure. However, the planning authority have considered this form of development as a temporary measure while another form of more permanent accommodation is pursued by the applicant. Whilst it is acknowledged that this form of accommodation has cultural aspects, this living arrangement is best accommodated within a purpose built site.
- 3.3.4 Notes and concurs with the recommendations of the Environment Department, but given that the site is smaller than 0.2ha, a site characterisation test will not be requested.
- 3.3.5 Recommends refusal.

4.0 PLANNING AUTHORITY DECISION

- 4.1 The planning authority decided to refuse permission for two reasons.
- 4.2 The first reason relates to the temporary nature of the proposed development and the precedent it would set outside the scope of a purpose built site.
- 4.3 The second reason relates to public health, stating that the site is unsuitable for the effective treatment and disposal of domestic effluent, due to the lack of adequate percolation properties of the soil.

5.0 HISTORY

PA Ref. 02/1549 – Permission refused for an extension to an existing commercial premises for the purposes of repair, storage, and sales of garden equipment to a Michael Sheehy.

6.0 POLICY

6.1 LIMERICK COUNTY COUNCIL DEVELOPMENT PLAN 2010-2016

Section 10.5.4 relates to Residential Development in Rural Areas. Table 10.2 provides 'Standards/Guidelines' including that the site curtilage be a minimum of 0.2ha.

Map 3.2 identifies the site as being within an 'Area of Strong Agricultural Base'. In such areas, Objective RS O2 applies to applications for single houses (see Section 10.1 below)

7.0 GROUNDS OF APPEAL

The 1st party appeal was submitted by the applicant. The main grounds of this appeal can be summarised as follows.

- 7.1.1 This is the only site the applicant has. When they bought the site, there was a building on the site which they intended to make habitable.
- 7.1.2 The applicant is from the area, with all family living in the area.
- 7.1.3 The applicants cannot get accommodation from any state agency. They have 6 children and no permanent accommodation. This site is their only option. They currently live in a rented apartment in Charleville, but it is not suitable and the landlord wants them to vacate.
- 7.1.4 The site next door has a septic tank, so the expectation was that the site would pass.

8.0 SUMMARY OF RESPONSES

8.1 PLANNING AUTHORITY

- 8.1.1 The planning authority have not responded to the matters raised in the appeal.

9.0 OBSERVERS

9.1 One observation have been submitted from Robert and Teresa Fenton, with 6 additional signatories. The main issues raised in this observation relate to

- Lack off effluent disposal system or water supply.
- Previous anti-social behaviour, vermin.
- Traffic safety
- The applicants do not own the site.

10.0 ASSESSMENT

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of development
- Visual impact and impact on residential amenity
- Effluent disposal and water supply
- Screening for appropriate assessment under the habitats directive

10.1 PRINCIPLE OF DEVELOPMENT

10.1.1 Broad principle

10.1.2 The planning authority find fault with the development based on mismatch between the temporary nature of the structure and the permanent nature of the application. I can discern no basis for this distinction and would propose that the application be assessed as if it related to a standard non-mobile home on this site, with no fewer, nor additional, planning requirements.

10.1.3 The site is at the end of a 'run' of one-off houses, and as such, there is a precedent for this form of development. As per Section 6.1 above, policy RS O2 applies.

10.1.4 Rural housing policies

10.1.5 In order to follow the logical flow of the planning policies on this issue, I have set out my assessment as a series of linked questions.

Q #	Question. Is the applicant...	From policy	Applicant's situation	Compliant with policy?
1A	a long term landowner [See definition at 1B] or his/her son or daughter seeking to build their first home on the family lands	CDP 3.9 Objective RS O2 (a)	There is no evidence to suggest that the applicant has owned the site for 15 years. In any event, it is less than 10ha.	No
1B	a person who has owned a minimum of 10 hectares of land in the rural area for a minimum period of 15 consecutive years.	CDP 3.9.3		
2	engaged in working the family farm	CDP 3.9 Objective RS O2 (b)	There is no farm.	No
3	working in essential rural activities and for this reason needs to be accommodated near their place of work	CDP 3.9 Objective RS O2 (c)	The applicants are unemployed.	No
4A	a local rural person [See definition at 4B] who for family and/or work reasons wish to live in the local rural area in which they have spent a substantial period of their lives (minimum 10 years)	CDP 3.9 Objective RS O2 (d)	The applicants' connections appear to be in the local urban centres of Charleville and Kilmallock, not this rural area.	No
4B	a person who is living or has lived in the local rural area for a minimum of 10 years prior to making the planning application. This includes returning emigrants seeking a permanent home in their local rural area.	CDP 3.9.2		

Table 1

10.1.6 Questions 1 to 4 are 'or' questions. As such, a positive outcome in any of these would lead to a favourable presumption under the applicable rural housing policy. However, as can be seen from the above, my assessment is that the applicant's circumstances are such that a negative conclusion arises in all instances.

10.1.7 As such, the principle of development is not acceptable.

10.2 VISUAL IMPACT AND IMPACTS ON RESIDENTIAL AMENITY

10.2.1 I do not consider that a mobile home is inherently less acceptable in visual terms than a new-build one-off house. I would consider the two to be comparable in terms of visual impact, from first principles.

10.2.2 As for the assertions of anti-social behaviour, I do not consider this to be a planning issue, nor something inherent to the proposed development before the board.

10.2.3 As an aside, I note that the drawings submitted do not tally with my inspection on site in respect of the windows to the mobile home's northwestern elevation, facing the house to the northwest. The drawings show no windows in either plan or elevation, yet there are windows along the entirety of this elevation. Aside from the inaccuracy this presents, the potential for overlooking from these windows is a matter for concern.

10.3 EFFLUENT DISPOSAL AND WATER SUPPLY

10.3.1 The applicants are not proposing any on-site waste water treatment, but rather are proposing to use a chemical toilet. This would not be an acceptable proposition for a new-build one-off house, nor is it an acceptable proposition for a mobile home. As such, the proposal is fatally flawed for this reason.

10.3.2 The planning authority have considered the question of whether the site possibly could accommodate a wastewater treatment system. The Environment Section recommended further information, whereas the planning officer considers that there is no point, as the site is inherently too small to accommodate a system.

10.3.3 The county plan does incorporate a requirement / guideline that sites for new build houses be a minimum of 0.2ha. The subject site is around one third the size of this minimum threshold.

10.3.4 I consider that it would not be appropriate to judge this issue solely on site size. However, it would appear highly unlikely that the site would comply with the requirements of the EPA guidelines.

10.4 SCREENING FOR APPROPRIATE ASSESSMENT UNDER THE HABITATS DIRECTIVE

- 10.4.1 The nearest Natura 2000 site is the Ballyhoura Mountains SAC, around 8km to the southeast. Given the minor nature of the proposed development, I do not consider that the proposed development would be likely to have any significant effects on the integrity of a European site having regard to its conservation objectives.

11.0 CONCLUSION AND RECOMMENDATION

In conclusion, I would concur broadly the planning authority's 2nd reason for refusal, but not the first. I also consider that the proposed development is non-compliant from the perspective of rural housing policy.

Based on the above, I recommend that permission be refused for the following reasons.

- 1 The proposed development is located in an area identified as being an 'Area of Strong Agricultural Base' in the Limerick County Council Development Plan 2010-2016. It is considered from the information submitted on file to date that the Applicant does not meet the criteria for a dwelling in such an area, as set out in Objective RS O2. As such, it is considered that the proposed development would contravene the objectives of the County Development Plan and be contrary to the proper planning and sustainable development of the area.
- 2 The proposed development would be prejudicial to public health by virtue of the lack of provision for on-site treatment of domestic effluent.

G. Ryan
Planning Inspector
26th January 2016