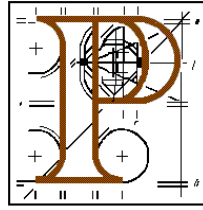


## An Bord Pleanála



### Inspector's Report

**Reference:** PL92.245608

**P.A. Reference:** 15/600672

**Title:** Retention of demountable house, garages/sheds, entrance & driveway (five year permission).

**Location:** Curragharsna, Fethard, Co. Tipperary

**Applicant:** Helen & Laurence Walsh

**Appellants:** same

**Observers:** None

**PA:** Tipperary County Council

**Type of Appeal:** First party against refusal

**Decision:** Permission refused

**Date of Site Visit:** 17<sup>th</sup> December 2015

**Inspector:** Philip Davis

## 1. Introduction

This appeal is by the applicants against the decision of the planning authority to refuse permission for the retention of a demountable house in a side garden in a rural area north-west of Fethard in County Tipperary. The reasons for refusal relate to policy, amenity, and public health.

## 2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

### **Curraghtarsna, Fethard, County Tipperary**

Curraghtarsna townland is located in rolling rural countryside some 6-km north-west of Fethard, some 7 km east of Cashel, and about 4 km by road due west of the village of Moyglass in County Tipperary. The area is characterised by large fields of well drained pasture, most with a southerly aspect as the levels drop from Kill Hill to the north down to the valley of the Glashtawney River, which flows south through Fethard. The area is served by the R692 Cashel to Fethard road, in addition to a network of third class roads. The appeal site is on a third class road which runs west from Moyglass. The area is relatively sparsely populated, with isolated farms along with small ribbons of development along the road network.

### **The site and environs**

The appeal site, with a site area given as 0.09577 hectares, is an elongated flat rectangle of side garden on the southern side of a third class road. It is part of a larger landholding including a bungalow dwelling with outhouses. The site is occupied by a single storey demountable dwelling. There is a low wall and gate to the frontage.

**West** of the site is a grassed area, which is indicated on the plans as not being part of the landholding, but is largely contiguous with the appeal site. This is bounded on the west by a ditch with running water, feeding into the road ditch. Beyond this is a small field, with an extensive farm complex further west.

**East** of the site is a bungalow, part of the landholding. There are a number of outhouses to the rear, mostly accommodation for a large number of dogs. There are about five dwellings on a ribbon of development further west.

**South** of the site are a series of open fields on gradually dropping levels.

**North** of the site are fields – a private track runs due north towards a large farm complex.

### 3. Proposal

The proposed development is described on the site notice as follows:

*Retention of a demountable dwelling, domestic garages/sheds, entrance and associated driveway and hard surfacing and for permission for 5 years for the demountable dwelling, domestic garage/sheds, entrance and associated driveway and hard surfacing and all associated works.*

### 4. Technical Reports and other planning file correspondence

#### Planning application

The planning application, with supporting documentation was submitted to the planning authority on the 31<sup>st</sup> July 2015.

#### Internal and External reports and correspondence.

An AA screening notes that the closest SAC is the Lower River Suir SAC, 9km distance. It concludes that there is no potential for significant effects, therefore AA (i.e. an NIS) is not required.

**Tipperary CC Planners Report:** The report notes that this would be the sixth residential unit within 250 metres on this side of the road. It notes the applicants were granted permission for a bungalow near Thurles which was sold due to financial difficulties (**00/1153**). The site is subject to ongoing enforcement action (**ENF 161.12**). It is stated that the applicants housing need was previously satisfied by a permission – the sale of that dwelling does not generate a further housing need in terms of rural housing policy. The site is considered too small. Sightlines are considered inadequate. It is noted that there is no information regarding the septic tank. Refusal recommended

### 5. Decision

The planning authority decided to refuse permission for three stated reasons, which I would summarise as follows:

1. It represents a substandard form of development which is contrary to SS5 (rural housing policy) and HGS 4 (design of individual houses).
2. The applicant has failed to demonstrate that the required sightline standards can be met, so it is considered a traffic hazard.
3. The applicant is considered to have failed to demonstrate that the existing septic tank is fit for purpose, and as such it is contrary to policy AEH 8 (groundwater protection).

## 6. Planning Context

### Planning permissions – appeal site

In July 2008 the planning authority decided to refuse permission for a dwelling and garage on the site (**08/607**) for reasons relating to settlement policy and the pattern of development.

The site is subject to an enforcement proceeding – reference **ENF 161-12**.

### Planning permissions – adjoining areas

The applicants were previously granted permission for a dwelling in Ballycurrane, Thurles in 2000 (**00/1153**).

### Development Plan

The site is in open countryside without a specific zoning designation. Settlement policy is set out in policy SS5 of the 2009 South Tipperary Development Plan. Relevant extracts from Development Plan are attached in the appendix to this report.

## 7. Grounds of Appeal

The background to the family circumstances are outlined – it is stated that Mr Walsh has been incapacitated through an accident and their previous house was repossessed. They were unaware that planning permission was required for a demountable structure.

It is accepted that it is contrary to settlement policy, but request a five year permission in order to find suitable alternatives. It is noted that the Board accepted such an argument in appeal PL23.236189 (overturning the decision of the planning authority).

It is noted that if the applicants shared the existing house (which would be the situation if they are not permitted to retain the house), then the traffic load would be the same. It is claimed that the access is not used.

It is argued that if the applicants move in with family in the adjoining house, the loading on the septic tank would be identical.

## 8. Planning Authority's Comments

The planning authority has not responded to the grounds of appeal.

## 9. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Principle of development**
- **Residential amenity**
- **Road safety**
- **Public health**
- **Appropriate Assessment and EIA**
- **Other issues**

### **Principle of Development**

The proposed development is in open countryside. While there is significant evidence of urban generated housing in the area, I would consider it more likely to be characteristic of a 'strong rural area' as defined in the Sustainable Rural Housing Guidelines. The site is within a stretch of 5 dwellings forming a near continuous ribbon of development between two farms.

While the applicant qualifies as a 'local person' under the set criteria, they had a previous dwelling which was sold under apparently unfortunate circumstances. Policy SS5 on rural housing in the development plan does not allow for multiple dwellings to the same applicants. As such, the applicant does not qualify under special circumstances as defined under the development plan.

The applicant notes that the Board in a previous appeal (**PL23.236189**) in Tipperary in 2010 allowed a temporary dwelling having regard to the special circumstances of the applicant in that case. While no two cases such as this are identical, I would consider it reasonable in some circumstances to allow flexibility when it comes to temporary dwellings such as this. Notwithstanding this, I note that the site has clearly been laid out to be a separate self-standing unit, with its own entrance and curtilage – I would consider this to go well beyond a reasonable use of temporary structures to address a genuine housing problem.

I would conclude therefore that the proposed development is contrary to rural settlement policy as the applicant does not qualify under the exemptions set out in SS5. The development plan does not set out specific policies for temporary dwellings within this specific context.

### **Residential amenity**

The demountable dwelling is small, on a site under 0.1 hectare. As such it is significantly under the minimum criteria as set out in policy HGS 4 in terms of house design. While it would be acceptable in principle possibly as an annex of an existing dwelling, it is clearly laid out as a separate dwelling and as such I concur with the planning authority that it represents a substandard form of development.

### **Road safety**

The planning authority state that there are inadequate sight lines at the entrance. No precise measurements are available, but I would consider that the access is no more or less hazardous in this regard than any of the other accesses along this stretch of relatively straight road which seems to be within the default speed limit for a rural road. However, it does clearly represent an unnecessary proliferation of accesses along a short stretch of road which will necessarily increase confusion and hazard for drivers. As such, I would concur with the reason for refusal set by the planning authority.

### **Public health**

The proposed development is served by a septic tank, indicated on the attached plans, but without further information. The site is clearly too small for a standard septic tank – about half what is normally considered an acceptable minimum. While the applicants point out that if they moved in to the main house, the loading would be the same, the demountable house and its associated hardcore area has very significantly reduced the area available for an appropriate percolation area. There was no information submitted as to the percolation characteristics of the subsurface geology (one is on the history file, indicating moderately impermeable subsoils), but I note the proximity of fast flowing watercourses along the road and to the west of the site. I would consider that this site is unsuitable for a separate septic tank and may well interfere with the workings of the septic tank of the adjoining dwelling, so I would concur with the reason for refusal issued by the planning authority.

### **Appropriate Assessment and EIA**

The closest European site is the Lower River Suir SAC (site code 002137), which lists under conservation objectives the need to protect a variety of species such as the freshwater pearl mussel and lamprey which require high water quality. The designated area is about 9 km to the west of the appeal site. There is a watercourse just west of the site, but it appears to drain east, away from the designated habitat. The planning authority carried out a screening and concluded that notwithstanding concerns about the septic tank there was sufficient distance that a stage 2 AA would not be required. Having regard to the generally small scale of the proposed development, I would consider that there would be no significant effect on SAC 002137 or any other Natura 2000 site, so I concur with this conclusion.

Due to the small scale of the proposed development and the absence of any sensitive environmental receptors the question of a requirement for EIA does not arise.

### **Other issues**

The site is not indicated on any available source to be prone to flooding. There are no indications that there are any recorded ancient monuments or protected structures likely to be directly or indirectly impacted upon.

## **10. Conclusions and Recommendations**

I conclude that the proposed development is contrary to development plan policy with regard to rural housing, and the dwelling represents a substandard design and layout. I consider that there is not sufficient information on file to determine that it is safe and appropriate for a separate septic tank. I also conclude that it represents a proliferation of road entrances on a rural road which could cause a traffic hazard.

I recommend therefore that planning permission for the retention of the demountable dwelling be refused planning permission for the following reasons and considerations.

### **REASONS AND CONSIDERATIONS**

1. It is considered that the proposed development for retention constitutes a substandard form of development which in itself and by the precedent it sets would be contrary to the settlement policy set out in Policy SS5 of the South Tipperary County Development Plan 2009 and policy on the design of rural housing set out in Policy HGS 4 of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in an additional highway access at a point on a public road where there is a proliferation of such private accesses along a short stretch of road and would thus endanger public safety by reason of traffic hazard and obstruction of road users.
3. Having regard to the restricted size of the site, and the impact of an additional building with hardstanding on the existing house plot, the Board is not satisfied, on the basis of submissions made in connection with the planning application and appeal, that the effluent from the proposed development can be satisfactorily be disposed of by way of a septic tank and percolation area. The proposed development would, therefore, be prejudicial to public health.

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**Philip Davis,**  
**Inspectorate.**  
**25<sup>th</sup> January 2016**