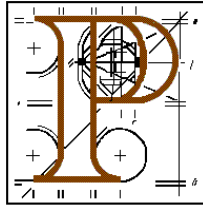


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL92.245816

Development: House and Associated Site Development Works at Ardgeeha, Glenconnor, Clonmel, Co Tipperary

Planning Application

Planning Authority: Tipperary County Council

Planning Authority Reg. Ref.: 15/S00729

Applicant: Dan Casey

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): Dan Casey

Type of Appeal: 1st v Refusal

Observers: Residents of Rockfield

Date of Site Inspection: 13 February 2016

Inspector: Juliet Ryan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site has a stated area of 0.55 hectares and comprises an irregularly shaped greenfield site with undulating ground levels located at the end of a cul de sac in a residential area at the northwestern outskirts of Clonmel.
- 1.2 An existing railway line runs in an east-west direction immediately adjacent to the site's northern boundary with the communal boundary defined by palisade fencing. An existing single storey dwelling is located adjacent to the eastern boundary, on the southern side of the existing access road. Further east there was ongoing construction of a dwelling underway at the time of the site inspection.
- 1.3 There is an existing right of way through the site that runs from the public road through the site in a southwesterly direction providing access to a narrow laneway that runs from the site and opens onto Glenconnor Cottages (another residential cul de sac to the south of the site)
- 1.4 The cul de sac that culminates at the subject site has a dog-leg turn some 100 metres east of the subject site, with an informal lay-by / hard standing area on its northern side arising from the splayed gated access to the railway line adjacent.
- 1.5 The stretch of carriageway running west from the dog-leg bend and culminating at the subject site varies from c. 4 – 5 metres in width (getting narrower as it approaches the site). There is no footpath (the single footpath serving the eastern side of the carriageway on the approach to the dogleg bend terminates adjacent to the railway access gate).
- 1.6 At the time of inspection the site appeared to have been subject to preliminary groundworks and heavy vehicle movement, making through-access impossible. This was not, however, a significant impediment to the overall inspection.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises a detached part two-storey split-level four bed dwelling with a stated floor area of 195.5 sq m.
- 2.2 The dwelling is located towards the northeastern corner of the site and is oriented facing the cul de sac, with a proposed tarmacadam drive serving the dwelling from the turning circle at the site access.

- 2.3 The dwelling has a horizontal plan form with the ground floor arranged on three levels with the top extending from the centre. The maximum ridge height above ground is 8 metres.
- 2.4 Proposed materials include coloured rendered finish; blue/black slate / tiled roof and feature timber cladding over the front porch.
- 2.5 Boundary treatment comprises a 1.2 m high timber fence backplanted with indigenous hedgerow.
- 2.6 The existing right of way through the site is to be maintained, and will define the southern boundary of the property.
- 2.7 It is proposed to connect to existing serves for water supply and waste water disposal. Surface water is proposed to drain to soakpits.

3.0 PLANNING HISTORY

Reg Ref 15/600729 – Permission refused for two dwelling houses at the site (one in general location of subject proposal and one in centre of site). Reasons for refusal echo reason for refusal of subject proposal.

Reg Ref 14/550024 – Permission granted for split level dwelling at eastern part of site (this is essentially a design revision of Reg Ref 14/550006 - below)

Reg Ref 14/550006 – Permission consequent to Outline Permission for 1 no. dwelling (dwelling at eastern part of site)

Reg Ref 10/27 – Application for outline permission for 3 no. dwellings. This was revised to 1 no. dwelling at Additional Information stage, and Outline Permission was granted in March 2011.

4.0 PLANNING AUTHORITY DECISION

4.1 Submissions / Observations

4.1.1 Some two Third Party submissions were received as follows:

- A submission was received by the resident in the adjoining property to the east, requesting that a high metal fence be erected along his boundary for peace of mind purposes (he states that he has been the victim of antisocial behaviour previously).

- A submission from a collection of neighbouring residents (Residents of Rockfield) expresses support for the proposal, and welcomes the fact that the existing long-standing right of way through the site will be maintained. The submission requests that any grant include a condition confirming that this right of way should be maintained.

4.1.2 The proposal was referred to **Iarnrod Éireann**, which set out a number of conditions relating to the safe operation of the railway.

4.2 Planning and Technical Reports

4.2.1 No internal reports appear to have been received by the Planning Department.

4.2.2 The Planner's Report considers the design of the dwelling to be generally acceptable. However, it refers to the planning history of the site, noting that the applicant had in the past been requested to provide proposals to widen the road or provide a footpath. The Report recommends that additional information be sought in respect of road upgrade works.

4.3 Additional Information

4.3.1 Additional information was requested in respect of one issue – namely the Planning Authority's contention that it would be necessary to upgrade the roadway serving the site to facilitate the proposal. The request invited the applicant to submit proposals in this regard.

4.3.2 In a brief response, the Applicant's Agent states that road widening cannot be undertaken because the applicant does not own any lands outside the subject site, and that the width of the carriageway would not facilitate the building of a footpath. The submission confirms that the applicant is willing to upgrade the surface of the roadway.

4.4 Reports Consequent to Additional Information

4.4.1 **Iarnrod Éireann** confirmed it had no further comment to make consequent to the receipt of the Additional Information submission.

4.4.2 Apart from the Planner's Report, no internal reports appear to have been written in respect of the additional information submission.

4.4.3 The Planner's Report consequent to the receipt of Additional Information refers to planning history of the site, noting that the extant permission had been reduced to one dwelling from a proposed 3 no., on the basis that any

more than one dwelling unit would require road improvements. It is for this reason that the most recent application was refused. The report recommends refusal given that no proposals for road widening and footpath provision have been made.

4.5 Planning Authority Decision

The Planning Authority decided to refuse permission for one reason, which may be summarised as follows:

- Access to site comprises road of inadequate width with no footpath
- Application has made no proposal to address same and would therefore constitute substandard development
- Would not comply with Policy INF3 of Development Plan which seeks to improve non-vehicular accessibility where opportunities arise in new development proposals
- Would not meet stated objective of Section 9.31 of Development Plan which seeks to upgrade substandard roads

5.0 GROUNDS OF APPEAL

The grounds of the First Party Appeal may be summarised as follows:

- Cites two precedent examples of small scale housing developments with maximum road access width of 4 and 4.1 metres, respectively¹
- Site already enjoys permission for a single dwelling, and the proposal to construct an additional dwelling would absorb 50% of the site development costs, making the development more viable
- Site is not appropriate for agricultural use and is the subject of anti-social behaviour
- There is planning gain in the proposed turning circle, which does not currently exist on the roadway
- Attach report from Malachy Wash & Partners, which assesses proposal in terms of traffic management and road safety
- Submit that proposal complies with all relevant design guidelines and documents

¹ Reg Ref 06550196, and PL52.223627 (Reg Ref 07550027)

- Proposal is an efficient use of zoned lands for which there is planning precedent; complies with Road Design Guidelines, and does not constitute a traffic hazard
- Requests the Board to overturn the Planning Authority's decision and to grant permission

Summary of Main Contents of Road Safety Review and Access Appraisal:

- Clonmel and Environs Development Plan pre-dates DMURS
- DMURS promotes shared surfaces and recognises that design can be used to manage movement and influence behaviour
- Permitted and proposed dwelling will have combined 17 no. two way vehicle trips per day
- The total combined vehicular movement from the permitted and proposed dwellings along with the existing adjacent dwelling would be 25.5 two way vehicular trips per day
- Predicted combined trip level is low and does not warrant new conventional road infrastructure given the end of cul de sac location
- Existing road would cater for two-way trips by using a self-regulating shared surface
- Recommends protecting varying width kerbed upstand along the front boundary of the existing adjacent dwelling
- Recommends local widening of the south side of the existing carriageway to provide for a vehicle passing bay / waiting area
- Acknowledges that existing carriageway functions as self-regulating shared surface and recommends that signage be provided confirming this status

6.0 RESPONSES / OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

In a brief response, the Planning Authority submits that its decision and reasoning is appropriate and that further development of housing at the

subject lands should only be considered when the inadequacies of the road and footpath infrastructure are addressed (i.e. adequate road width and provision of footpath). In the absence of such proposals, the Planning Authority requests the Board to uphold its decision.

6.2 Observation – Residents of Rockfield

This observation is submitted by a collection of local residents (who also made a submission to the Planning Authority) and may be summarised as follows:

- There is an existing right of way through the site
- Welcome applicant's willingness to retain right of way
- Request that right of way be subject of condition in any grant of permission
- Notes that access to / from existing adjacent house must be facilitated at all times during construction and operational phase
- Welcomes provision of turning area, and requests that it be large enough to accommodate large vehicles
- Questions whether thought has been given to blocking of roadway by delivery trucks to adjacent dwelling
- Notes that proposed passing bay appears to be situated directly outside an existing vacant site, and expresses hope that this will not adversely affect development potential of that site
- Queries certain movements / accessibility from proposed passing bay
- Reiterate support for proposal

7.0 POLICY CONTEXT

7.1 Clonmel and Environs Development Plan 2013

7.1.1 The site is zoned for residential use under the Development Plan as follows:

To preserve and enhance existing residential amenity including avoiding excessive overlooking, reduction in general safety and

the reduction in the general usability and security of existing public and private open space

- 7.1.2 Policy INF 3 has a stated aim to improve pedestrian / cycle infrastructure and to require improvements be made in new developments as appropriate
- 7.1.3 Section 6.4.3 of the Plan encourages the design approach to residential development to be based on a network of spaces that prioritises non-vehicular modes of transport, and supports the use of 'home zones'.
- 7.1.4 Section 9.3.1 refers to the Council's 'Taking in Charge' policy for residential developments.
- 7.1.5 Excerpt copies of pertinent policies are appended.

8.0 ASSESSMENT

8.1 Matters Arising

- 8.1.1 The subject proposal is for a single detached dwelling in a discrete plot within a larger greenfield site located at the end of a residential cul de sac. The site already has benefit of planning for a single dwelling in another plot (southeastern part of site). That permission arose from an original outline application for three dwellings at the overall site, which was amended at additional information stage to provide just one dwelling. The reduction was in response to the Local Authority's request for proposals to address the substandard access arrangements. It appears that the applicant had no plans to make road / access improvements, and that the Council therefore considered that only one dwelling would be appropriate in the absence of such improvements.
- 8.1.2 The subject proposal is located generally in the same plot as one of the original three proposed dwellings (northwest part of site). A review of the Site Layout Plan shows that a remaining plot exists (southern part of site); but no proposals have been made for it.
- 8.1.3 I consider the key planning considerations to be as follows:
 - Appropriate Assessment
 - Principle of Proposal
 - Design & Layout
 - Access

8.2 Appropriate Assessment

The Lower River Suir SAC is located c. 1km south of the subject site, with the western urban area of Clonmel situated in-between. Having regard to the nature and scale of the development proposed at this suburban site; to the nature of the receiving environment; to the absence of any source-pathway-receptor link thereto, and given the intervening urban land uses, no appropriate assessment issues arise.

8.3 Principle of Proposal

8.3.1 The subject site is zoned for residential development and there is an extant permission for a dwelling towards its eastern boundary. As such, I consider the subject proposal to be acceptable in principle and would represent an efficient use of zoned land in an existing residential area.

8.4 Design & Layout

8.4.1 The subject site is constrained in terms of development potential given its cul de sac location and the narrow approach road. Having regard to this, and given the extant permission for a dwelling on the eastern plot on site, I am satisfied that the subject dwelling is appropriately positioned and will provide a good standard of residential amenity.

8.4.2 It is to be welcomed that existing boundaries are to be retained and backplanted with indigenous species. The proposed new front boundary treatment of timber fencing and indigenous hedgerow is also considered acceptable.

8.4.3 There is an existing right of way through the site which is proposed to be retained. I would agree with Third Party observations who have welcomed this but would like it confirmed by condition in any potential grant of permission.

8.4.4 Arising from the positioning of the subject proposal on site; the extant permission under Reg Ref 14/550024; and the wayleave through the site, a large plot of land remains for which no proposals have been made. Given the zoning and planning history of the site, it would appear likely that this plot could be the subject of a future development proposal. Accordingly, and notwithstanding my comments in 8.4.1 above, I would have concerns that the site is being developed in a piecemeal fashion, and that this approach prevents a meaningful assessment of an overall design proposal and any issues arising. This concern would represent a new issue, however, for which the Board may wish to issue a S.137 notice.

8.5 Access

- 8.5.1 It would not appear that the Planning Authority has any objection to the principle of the proposal; nor, for that matter, to the possibility of further residential development at the subject site, as evidenced by its assessment of the original outline application for three dwellings at the site (Reg Ref 10/27). The Further Information Request for that application sought proposals for the upgrade of the cul de sac roadway to include road widening and the provision of a footpath. In the response to that request (submitted 21 February 2011), the applicant confirmed that there were no proposals to upgrade the roadway serving the site, but that the quantum of development had now been reduced to one dwelling, and that future small scale development might be pursued “...*in the Longer term, should appropriate access be provided.....*”. It would seem clear from this submission, that the applicant accepted that in the absence of proposals for road upgrading that only a single house would be appropriate at the subject site.
- 8.5.2 The applicant remains of the opinion that the roadway serving the subject site is appropriate given the modest scale of the proposal (and extant permission). In this regard he cites precedent examples of permissions and also notes that there is an aspect of planning gain from the development insofar as the cul de sac will have benefit of a turning circle which did not previously exist. Whilst these points are reasonably made, they do not engage with Policy INF 3 of the Development Plan which seeks to improve pedestrian / cycle infrastructure and to require improvements be made in new developments as appropriate.
- 8.5.3 It would appear that the applicant is relying on the fact that the subject carriageway is already a ‘shared surface’. Whilst this may be technically correct, I would consider it functions as a shared space by necessity (i.e. the absence of a footpath) than by any design intent. And whilst this may have been acceptable for a greenfield site with little traffic; it is not acceptable in a newly developing residential environment, bearing in mind the increase in movement that this would produce.
- 8.5.4 The Road Safety Review and Access Appraisal submitted with the proposal relies heavily on DMURs and its promotion of shared surfaces, but does not engage meaningfully with the design details recommended by DMURs in this regard. The re-enforcement of a low-speed environment relies heavily on the materials used for shared surfaces, with robust surface materials such as block paving most effective in lowering design speeds according to Section 4.4.2 of DMURs (excerpt appended). No proposals have been submitted with regard to improvements to the paving materials of the existing tarmac road. I do not consider this accords with either the spirit or detailed design recommendations of DMURs, nor does it accord with

Policies INF 3 or 6.4.3 of the Development Plan. The drawing submitted as part of the road safety review depicts vehicular intervisibility and passing bays, but illustrates no design mechanisms to address pedestrian and cyclist movement or safety.

- 8.5.5 The Board is referred to Section 6.3 of the Road Safety Review and Access Appraisal submitted with the subject proposal. This shows that the trip generation rate was based on the subject proposal; the permitted dwelling on site; and the existing adjacent dwelling to the east. No allowance appears to have been made for the remaining plot within the site and any potential future development of it; nor has regard been had to the dwelling further east and currently under construction (the access to which is west of the bend in the cul de sac and therefore within the constrained stretch of carriageway). Accordingly I would question the total combined vehicular movement estimate of 25.5 trips per day.

9.0 CONCLUSION AND RECOMMENDATION

- 9.1 The subject proposal is generally acceptable in principle, but would generate additional traffic along a narrow cul de sac road without a footpath on which additional residential development has already been permitted. As such, I would consider it reasonable and in accordance with Development Plan policy (and orderly development) that any future proposals be accompanied by detailed design proposals for an improved shared low-speed environment.
- 9.2 I would have concerns about the piecemeal development of the subject site but note that this has not been raised by the Parties and would thus not be a reasonable ground for refusal, being a new issue.
- 9.3 It is considered that the proposed development should be refused for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

1. Having regard to the location of the subject site at the culmination of a cul de sac which is substandard in width and without a footpath; and having regard to Policy INF3 of the Clonmel and Environs Development Plan 2013, which seeks to improve pedestrian and cycle infrastructure in new developments, and to Section 6.4.3 of the Plan which encourages the use of 'home zones'; and having regard to the planning history of the site (particularly the extant permission for a dwelling), and the absence of detailed design improvements for pedestrians and cyclists, it is considered that the proposal would constitute substandard development. Furthermore, the Board is not satisfied

that the proposal would not endanger public safety by reason of traffic hazard and conflict between road users, that is, vehicular traffic, pedestrians and cyclists.

Juliet Ryan
Senior Planning Inspector
21 March 2016