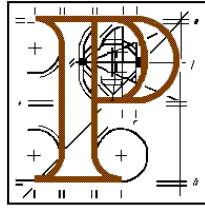

An Bord Pleanála



Inspector's Report

Development: House, entrance and treatment system, Croagh, Commons, Rathkeale, Co. Limerick.

Planning Application

Planning Authority : Limerick City and County Council

Planning Authority Register Reference : 15/773

Type of Planning Application : Permission

Applicants : Con Mullane

Planning Authority Decision : Refuse

Planning Appeal

Appellants : Con Mullane

Type of Appeal : 1st Party v. Refusal

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 16/02/16

Appendices

1. Photographs
2. Extracts from the Limerick County Development Plan 2010

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area of 0.261 hectares, is accessed via a cul-de-sac lane between the R523 and the N21 c. 2 km to the east of Rathkeale. The lane provides access to 6 dwellings, 2 of which face onto the regional road.

The site is roughly rectangular in shape and is relatively level with the boundaries delineated by hedgerows to the roadside, north and part of the south, with fencing delineating the remainder. A dwelling backs onto the site to the south with the lands to the west and north in agricultural use. A two storey dwelling is immediately opposite on the lane.

2. PROPOSED DEVELOPMENT

The proposal entails the construction of a single storey dwelling served by an effluent treatment system with sand polishing filter. As per the details provided in the Site Characterisation Form a T value of 47 was recorded with no water noted in the trial hole.

The applicant is stated to be from the area and currently resides with his parents at Reens East, Ardagh. His children attend school in Rathkeale.

3. TECHNICAL REPORTS

The **Mid-West Design Office** in a report dated **23/10/15** notes the site is located within Route Corridor Option 3 for the Foynes to Limerick Road Improvement Scheme. The application is deemed to be premature.

The **Executive Technician, Environment Section** in a report dated **02/11/15** has no objection to the proposed subject to conditions.

An undated report titled **Planning** report summarises the proposed development and the report from the Design Office above.

Transport Infrastructure Ireland in a letter dated **11/11/15** considers the proposal to be at variance with official policy. It is located within an area currently under consideration as a route option for a national road improvement scheme and the application is therefore premature pending the determination of the route.

The **Planner's** report dated **11/11/15** details the planning history on the adjoining sites. The applicant has not demonstrated that he has lived within 10km of the site

for a minimum of 10 years. The road serving the site is substandard and the applicant has not demonstrated how he complies with objective IN09 of the County Development Plan in relation to substandard roads. A refusal of permission for three reasons is recommended.

Note: An objection to the proposal received by the PA has been forwarded to the Board for its information. The issues raised relate to adequacy of road, concentration of effluent treatment systems, compliance with settlement location policy and density of development.

4. PLANNING AUTHORITY'S DECISION

The PA decided to refuse permission for the above described development for three reasons which can be summarised as follows:

1. The applicant has not demonstrated that he complies with the settlement location policy for the area. The proposal would, therefore, contravene materially the development objectives for same.
2. The road has insufficient capacity to accommodate the proposal.
3. The site is within a route corridor option for the Foynes to Limerick Road Improvement Scheme. The proposal would be premature pending the determination by the PA of a road layout for the area.

5. GROUNDS OF APPEAL

The submission by Seamus McElligott on behalf of the applicant can be summarised as follows:

- The applicant lives in Reens, Ardagh which is within 10km of the site. Documentation has been submitted demonstrating the applicant's eligibility.
- The road is not substandard with plenty of pull in points to facilitate vehicles to pass. A further dwelling on the cul-de-sac can be accommodated.
- Whilst the site is technically within the Route Corridor Option for the Foynes to Limerick Road, in view of the existing development adjoining it is obvious that any road improvement will take place on the opposite side of the main road.

6. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

The PA has no comment.

7. OBSERVATIONS

None

8. RELEVANT PLANNING HISTORY

I am not aware of any previous applications on the subject site.

9. DEVELOPMENT PLAN PROVISIONS

The Limerick County Development Plan, 2010 refers.

The Council recognises the needs of local rural people who wish to live or work in the area in which they grew up. The following 3 criteria arise in assessing applications under this category:

1. The applicant must come within the definition of Local Rural Person
2. The proposed site must be situated within their Local Rural Area
3. The applicant must have a Local Rural Housing Need.

A *Local Rural Person* is a person who has living in the local rural area for a minimum of 10 years prior to making the application.

The *Local Rural Area* is defined as the area generally, but not exclusively, within a 10km radius of the applicant's family home.

Local Rural Housing Need is defined as a person who does not or has never owned a house in the 'local rural area' and has the need for a permanent dwelling for their own use in the rural area.

The site is within an area designated as having a strong agricultural base.

Objective RS02 – Single Houses in Area of Strong Agricultural Base

It is an objective to recognise the individual housing needs of people intrinsic to the rural area located within the rural areas defined as the 'areas of strong agricultural base'. Such needs may be accommodated on lands outside of the 'Rural Area Under Strong Urban Influence', subject to the availability of a suitable site and normal proper planning and sustainable development criteria.

It is an objective of the Council to permit single houses in the area of strong agricultural base to facilitate those with a genuine rural housing need in the area.

In order to demonstrate a genuine rural housing need, any of the following criteria should be met:

(d) the application is being made by a local rural person 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) and are seeking to build their first home in the local rural area.

Policy IN P10 – the Council will continue to work with the NRA in protecting corridors and route alignments identified for national road projects from prejudicial development, in accordance with the Mid-West Regional Planning Guidelines, Transport 21 and the National Development Plan.

Objective IN 09 – it is an objective to ensure that on roads that are sub-standard, either in terms of their width (less than 3 metres), alignment, surface condition or junction with the nearest main road, development will only be considered in exceptional circumstances. A presumption in favour of family members and long term landowners will be considered in exceptional circumstances, where no alternative site is available, or where the only alternative access available is onto a strategic regional as designated in the County Development Plan

10. ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be assessed under the following headings:

1. Compliance with Rural Settlement Policy
2. Foynes to Limerick Road Improvement Scheme
3. Adequacy of road serving the site
4. AA – Screening

10.1 Compliance with Rural Settlement Policy

As per the current Limerick County Development Plan the site is within an area identified as having a Strong Agricultural Base which is restructuring to cope with changes in the agricultural sector and is served by an extensive network of smaller rural towns, village and other settlements. In recognition of these characteristics and to consolidate and sustain the stability of the rural population, it is a plan requirement that applicants have a genuine rural generated housing need based on their social and/or economic links to the area.

The applicant is stated to be from Reens East, Ardagh c. 7.5 km to the south-west of the site and as such comes within the 10km radius set to generally determine 'Local Rural Area' as set out in Section 3.9.2 of the Development Plan. The applicant is also stated as being the owner of the appeal site in question although no evidence to corroborate this fact have been provided.

On balance I would accept the view that the applicant is from the 'local rural area' however no detail has been provided that the proposal would constitute the applicant's first home in the said local rural area. In view of the concentration of one off housing in the immediate vicinity and on the lands to the north of the N21 it is evident that the area is under pressure from one off housing and, thus, I consider that any application that is premised on genuine rural housing need must be fully supported. I do not believe this to be the case in this instance.

10.2 Foynes to Limerick Road Improvement Scheme

The Foynes to Limerick Road Improvement Scheme is seeking to provide a high quality road connection between the port of Foynes and Limerick and will include a bypass of Adare. The preferred route corridor has been identified and has been subject to public display. The appeal site is within the 300 metre indicative corridor for the route. Whilst the agent for the appellant contends that logic would dictate that any improvements would occur on the opposite side of the main road this is a matter for relevant authorities to decide. As an aside there is a ribbon of houses along the local road on the opposite side of the N21 within the route corridor and, as such, would be subject to comparable constraints as the vicinity of the appeal site.

Until the road layout has been determined the proposal must be considered premature and thus would be contrary to the provisions as set out in Guidelines on Spatial Planning and National Roads namely section 2.9 which requires the protection of alignments for future national road projects. It would also contravene materially development plan policy IN P10 in terms of protection of corridors and route alignments. I therefore concur with the PA's reason for refusal in this regard.

10.3 Adequacy of Road Serving the Site

The cul-de-sac serving the site was originally a through route but was bisected by the N21 national primary road. It provides access for 6 dwellings, two of which face onto the regional road. Albeit the fact that the road is a cul-de-sac, by reason of its inadequate width and poor surface I would submit that it a sub standard road and that objective IN 09 of the development plan would apply. As the applicant has not demonstrated that exceptional circumstances arise in his case namely site ownership for a significant period or no alternative sites available I would concur with the PA's reason for refusal in this regard.

10.4 AA – Screening

The nearest designated site is the Askeaton Fen Complex SAC (site code 002279) c. 4km to the north. The qualifying interests are Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* and Alkaline fens. To date generic conservation objectives apply with the the overall aim being to ensure that the favourable conservation condition of the Annex I habitats and Annex II species for which the SAC has been selected is maintained.

Taking into consideration the small scale nature of the development as proposed, the distance between the site and the SAC, the absence of any direct pathway via a watercourse it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site numbers 2279 in view of the site's conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

11. CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations:

REASONS AND CONSIDERATIONS

1. Having regard to the location of the site within the preferred route corridor for the Foynes to Limerick Road Improvement Scheme it is considered that the proposed development would be premature pending the determination by the road authority of a road layout for the area.
2. The appeal site is located in a rural area identified as having a Strong Agricultural Base within the current Limerick County Development Plan wherein it is the policy of the Council to restrict rural housing development to certain limited categories of applicants. Based on the information submitted with the application the Board is not satisfied that the applicant has demonstrated a genuine rural housing need as set out in development plan objective RS02. The proposed development would, therefore, contravene materially the provisions of the Plan with regard to the provision of sustainable rural housing and would, therefore, be contrary to the proper planning and sustainable development of the area.

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3. It is considered that the proposed development would contravene materially objective IN 09 of the current development plan in that the cul-de-sac road onto which access is proposed is considered to be sub-standard in terms of width and surface condition and the applicant has not demonstrated that exceptional circumstances arise or that he is a long term landowner with no alternative sites available. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Inspectorate

March, 2016