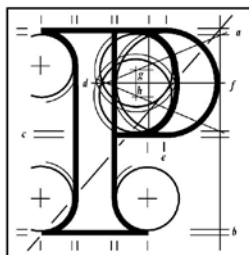


An Bord Pleanála



Inspector's Report

Development: Construction of a dwelling house, domestic garage, site entrance, waste water treatment and disposal system and all ancillary works at Brickhill East, Cratloe, Co. Clare.

Application

Planning authority: Clare County Council
Planning application reg. no. 15/710
Applicants: Deborah Deegan & Patrick Harkins
Type of application: Permission
Planning authority's decision: Grant, subject to 13 conditions

Appeal

Appellant: Shane Smyth
Type of appeal: Third party -v- Decision
Observers: None
Date of site inspection: 6th July 2016
Inspector: Hugh D. Morrison

Site

The site is located 1.7 km north of Cratloe Village in a rural area wherein a cluster of dwelling houses have been built in recent years. These dwelling houses lie to the west of this site on land that rises towards the east. The site itself is of undulating form and the 50m OD contour runs through it on a roughly north/south axis. This site is heavily overgrown and it lies at a higher level than the sites of the other dwelling houses.

The site is amorphous and it extends over an area of 2.12 hectares on a roughly east/west axis. Access is available off the end of a lane that serves the aforementioned dwelling houses. This lane is itself accessed off the L3036. The junction between this local road and that portion of the R482 that runs between Cratloe and Sixmilebridge lies a short distance to the south.

Proposal

The proposal would entail the construction of a three/four bed single storey dwelling house (224 sq m) with an attached garage (24 sq m). This dwelling house would be sited centrally on the site with the principal elevation facing west north west. Its design would be in a modern idiom that would incorporate mono-pitched roofs clad in standing seam materials to the main built forms with flat roofs to the subsidiary built forms and a mixed palette of painted timber and sand/cement finishes to the walls.

The proposed dwelling house would be served by a driveway that would sweep around from the north to connect with its north eastern elevations. The principal elevation of this dwelling house would be accompanied by a landscaped mound that would be sited forward of it to screen views of the existing dwelling houses to the west. A waste water treatment system would be installed (a Tricel P6), along with a soil polishing filter, both of which would be sited to the south of the dwelling house.

Planning authority's decision

Following the receipt of further information, permission was granted subject to 13 conditions.

Technical reports

- An Taisce: Advises that the hill side has a history of landslides and archaeological sites.
- Environment Section: No objection to proposed waste water treatment system.
- Water Services: Advises that site is served by a GWS.

Grounds of appeal

- The appellant's residential property lies to the south west of the site.
- The FFL of his dwelling house is 43.1m whereas that of the proposed split-level dwelling house would be 56.9/58.1m.
- Rock outcrops occur within the area.
- The trial holes in the Site Suitability Assessment (SSA) could only be excavated to a depth of 1.5m due to bedrock.
- The SSA reports that ground water flows in a south westerly direction.
- It also reports that the top and sub-soils are well drained.
- The SSA reports that only a shallow depth of water remained in the trial holes after 8 hours of heavy rain, which indicates that the bedrock is fissured and free draining.
- The appellant can testify to the aforementioned free draining nature of the site as water frequently cascades down the rock face that separates his property from this site.
- He is thus very concerned that effluent from the site would flow into his rear garden.

Responses

The Planning Authority draws attention to the advice of the Environment Section.

The applicants draw attention to the fact that they have employed the services of a chartered building engineer who is a certified site assessor recognised by Clare County Council to undertake the SSA. Both this assessor and the Environment Section have deemed the site to be suitable and the proposed waste water treatment system would be installed and maintained in accordance with the EPA's Code of Practice.

Planning history

- 01/2398: Outline application for dwelling house, garage, septic tank, entrance, access road and ancillary site works refused on the grounds of backland development that would be haphazard and disorderly, prejudicial to public health due to an over concentration of effluent treatment systems, visual intrusion by virtue of the site's elevated position adjacent to a scenic route, local housing need has not been demonstrated, and traffic hazard due

to sub-standard County road and restricted forward visibility at its junction with the R462.

- 14/732: Dwelling house, garage, septic tank, entrance, access road and ancillary site withdrawn prior to decision.
- PPI15/160: Pre-application consultations occurred on 22/07 & 11/08 2015.

Development Plan

Under the Clare County Development Plan 2011 – 2017 (CDP), the site is shown as lying within both an area of special control which is under strong urban pressure and a working landscape. Section 3.11 of the CDP addresses the former designation and Section 16.2 the latter. The site is also shown as lying between two County roads that are scenic routes.

Section 19.4.3 of the CDP states that “In terms of new houses in the countryside, the County Clare Rural House Design Guide should be used as a reference for applicants for planning permission.”

Under the South Clare Local Area Plan 2012 – 2018 (LAP), the site is shown as lying partially within the boundary around the Ballintlea South 2 Cluster, i.e. this boundary falls the line of what appears to be a field boundary that overlaps with the north western portion of the site. This Plan states that “To meet the needs of those wishing to settle in rural areas, the provisions of Objective 3.11 of the CDP (i.e. the local need requirement) will not apply within the cluster boundaries.

National planning guidelines

Sustainable Rural Housing

Assessment

I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Local need,
- (ii) Amenity,
- (iii) Access,
- (iv) Water, and
- (v) AA.

(i) Local need

1.1 The CDP shows the site as lying beyond the settlement boundary around Cratloe Village and within a rural area under strong urban pressure. This Plan's Objective 3.11 addresses new single dwelling houses in the countryside within this area.

1.2 The South Clare Local Area Plan 2012 – 2018 (LAP) shows the site as lying largely beyond the boundary around the Ballintlea South 2 Cluster, i.e. the extremity of the access lane to the site and a small portion of the main body of the site lies within this Cluster. The LAP states that applicants for single dwelling houses within recognised clusters are not required to demonstrate that they have a local rural housing need. However, as the majority of the site in this case, including the siting of the proposed dwelling house within this site, lies outside the cluster boundary, I consider that the applicants are required to demonstrate that they have such a need. The Board's decisions on appeals PL03.245167 and PL03.245380, for sites that were partially and wholly outside the Portrine cluster boundary, reflected this approach.

1.3 The applicants have completed the planning authority's Part 2 application form. One of the applicants, Deborah Deegan, has applied for the proposed dwelling house under Category A of Objective 3.11, i.e. a local rural person. She is thus required to comply with the following threefold criterion:

- The applicant must come within the definition of a "local rural person",
- The proposed site must be situated within their "local rural area", and
- The applicant must have a "local rural housing need".

I will discuss these criteria in reverse order.

1.4 The applicants have stated that they have never owned a house/apartment.

1.5.1 The applicant, Deborah Deegan, was born and reared in Cratloe Village. She has submitted a plan of Cratloe Village that shows the location of her family of origin's home where her parents continue to reside. The dwelling house thus identified lies within the settlement boundary around Cratloe Village, which is categorised in the CDP as being a large village and so it is not a "rural area". (The location of other existing and former homes belonging to relatives is also shown, two of which are within the settlement boundary and one of which lies outside).

1.5.2 The applicant presently resides in Castlecrine, a townland to the east north east of Sixmilebridge, which is a rural area within 10 km of the appeal site.

- 1.6.1 The applicants have resided permanently in Castlecrine since 2007, i.e. a period in excess of the 7 years cited in the CDP as being necessary to establish that applicants are local rural people.
- 1.6.2 The Sustainable Rural Housing Guidelines distinguish between applicants who have an urban generated and a rural generated housing need. The latter are identified as persons who either are an intrinsic part of the rural community or who work full-time or part-time in rural areas. The applicants work in the settlements of Sixmilebridge and Shannon and so they do not work in rural areas. Thus, they do not qualify under the second of these headings. Under the first, “Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community.” The CDP appears to interpret substantial as 7 years. The Guidelines go on to state that examples of such persons include “people who have lived most of their lives in rural areas and are building their first homes.” The applicant would fit this category but for the fact that they have not lived most of their lives in Castlecrine.
- 1.6.3 The applicant has submitted evidence in support of her claim that she is a local rural person. She states that the appeal site is in the parish where she grew up and where she has strong ties. Her parents and siblings live within 1 km of this site and her daughter currently attends Cratloe National School, as she herself did. Thus, the community that the applicant identifies with for the purpose of this application is that of Cratloe Village rather than Castlecrine and yet the latter, rather than the former, is identified as a rural area.
- 1.6.4 The definition of a local rural person also includes someone who was born or lived in a rural area for 7 years, which is now within a settlement boundary. It is possible that Cratloe Village fits within this category, as a settlement that may only have been defined by means of a boundary under the LAP. This Village was formerly categorised as a “small village” in the Clare County Development Plan 2005 – 2011 and so it has been the subject of growth over recent years. The applicant has not, however, presented any evidence to the effect that it could reasonably have been described as a rural area during her youth, when she resided there.
- 1.7 I, therefore, conclude that, whereas the applicant, Deborah Deegan, would appear to be a candidate for a single dwelling house in the countryside under Category A of Objective 3.11 of the CDP, as this Category does not, at critical points, reflect the provisions of the Sustainable Rural Housing Guidelines, I do not consider that the applicant has demonstrated that she has a rural generated local housing need.

(ii) Amenity

- 2.1 The proposal would be sited to the east of an existing group of dwelling houses that lie within the Ballintlea South 2 Cluster. These dwelling houses are ranged across westerly facing slopes that rise at gentle and moderate gradients from the local road (L3036) below. The site is at a higher level, of undulating form and overgrown.
- 2.2 Views of the site from the said local road are limited due to roadside hedgerows. Likewise, views on the lane to the site are limited by topography, landscaping, and existing development. Thus, the site is only clearly visible in the middle distance.
- 2.3 The site extends over an area of 2.12 hectares. The proposed dwelling house would be of single storey, split-level form, i.e. the north western portion would have a FFL of 56.90m OD, while the remaining portions would have a FFL of 58.10 m OD. Floor to ridge heights would be variously 4.950m and 5m. Contours crossing the main body of the site would rise from 51m OD in the west to 64m OD in the east. Given these heights, I do not anticipate that the proposed dwelling house would be likely to appear as appreciable skyline development.
- 2.4 The applicant proposes to form a landscaped mound forward of the principal elevation of the dwelling house. This mound would have the effect of screening views of adjacent dwelling houses to the west. It would also, inadvertently, obstruct wider westerly views that contribute to the site's appeal.
- 2.5 During my site visit, I observed that the adjacent two storey dwelling houses to the west are sited at lower levels than the main body of the appeal site. Any overlooking of these dwelling houses would thus be of first floor windows at distances of 60 – 70m. Existing landscaping along the north western boundary would mitigate such overlooking and so I do not consider that the aforementioned landscaped mound would be necessary. However, I am concerned that, given the exposed and extensive nature of the site, how it would be subsequently landscaped is a significant issue. Clearly, the laying out of this site to provide a suburban like garden area would be highly inappropriate to terrain that reads as wild at present. Accordingly, landscaping proposals for the site should be submitted, in my view in advance of a decision on the current proposal, so that their landscape and visual impacts can be properly assessed. If the Board is minded to grant permission, then such proposals could be the subject of a request for further information.
- 2.6 I, therefore, conclude that, while the proposal would be compatible with the residential amenities of the area, the exposed and extensive nature of the site mean that how it is subsequently landscaped is a matter of considerable

sensitivity that should be the subject of proposals in advance of any decision to grant permission.

(iii) Access

- 3.1 The site would be accessed off a lane that runs to the site from the L3056. Under the proposal, this lane would be the subject of an upgrade that would include the provision of a sealed surface and the installation of a drainage system.
- 3.2 The junction between the lane and the L3056 has adequate sightlines provided roadside verges are kept trim.
- 3.3 The junction between the L3056 and the R462 to the west of the site occurs at a point adjacent to the Brickhill Bridge, where the Limerick to Galway railway passes over the regional road. Sightlines to the west underneath this Bridge are limited and forward visibility for approaching traffic along the R462 is, likewise, limited. Movements at this junction are thus inherently difficult.
- 3.4 I note from the planning history of the site that, in the past, the aforementioned difficulties have constituted a reason for refusing the development of the appeal site. I note, too, that in the intervening years, other dwelling houses have been granted permission, the southerly access to which would rely upon the said junction. I do not anticipate that the traffic generated by the proposal would lead to a significant increase in movements at the junction between the L3056 and the R462 and so, in the light of the foregoing considerations, I do not consider that it would be reasonable to object to this proposal on traffic management and road safety grounds.
- 3.5 I conclude that, subject to the proposed upgrade of the lane, objection to the proposal on access grounds would not be warranted.

(iv) Water

- 4.1 The proposed dwelling house would be connected to the public water mains. Surface water drainage arrangements have not been disclosed. If the Board is minded to grant permission, then they could be conditioned. Waste water drainage arrangements would entail the installation of a waste water treatment system (WWTS) (a Tricel P6), along with a soil polishing filter (3 x 15 sq m = 45 sq m), both of which would be sited to the south of the dwelling house.
- 4.2 The proposed dwelling house would be capable of accommodating 8 persons and so, under Table 7.2 of the EPA's relevant Code of Practice, the minimum length of percolation trench should be 144m, i.e. considerably in excess of that which is proposed.

- 4.3 The applicant has submitted a site suitability report, which includes a completed site characterisation form. This report states that the T and P values recorded were 9.94 and 13.86 minutes per 25mm and so both the top and sub-soils drain well. It further states that a trial pit had 90mm of water in it after 8 hours of heavy rain. This pit was dry when excavated and it was dry again 24 hours after the said rain.
- 4.4 The appellant draws attention to his dwelling house, which lies at a lower level than that of the site and to the west of the proposed soil polishing filter. Ground water flows in a south westerly direction. He expresses concern that the well-draining quality of the top and sub-soils would risk effluent discharging to ground water. To the rear of his dwelling house is an embankment that includes within it rock faces down which water frequently cascades. He is thus concerned that such water could become polluted and pose a public health threat to his property.
- 4.5 The planning authority and the applicants have responded by drawing attention to the advice of the Environment Section, which raised no objection to the proposed WWTS.
- 4.6 The appellant has submitted photographs to illustrate the cascade. I note from these that it is unclear whether the water depicted is surface or ground water. I note, too, that the ground water direction is south west, while the appellant's property would be 65m to the west of the proposed soil polishing filter.
- 4.7 The location plan submitted as part of the site suitability report shows two wells that would be 75 – 80m to the west of the proposed soil polishing filter. The appellant has not referred to these wells. The applicants acknowledge their presence, but do not state whether they are operational or not. Table B.3 of the EPA's relevant Code of Practice states that the minimum recommended separation distance between percolation areas and down gradient wells, in the circumstances pertaining in the present case, is 30m, with the proviso that, where effluent enters bedrock rapidly and zones of contribution are affected, further site-specific evaluation should be undertaken. I consider that, if the Board is minded to grant permission, then further information should be sought to establish definitively the status of these wells and to carry out the said evaluation.
- 4.8 I conclude that the size of the proposed soil polishing filter would need to be enlarged to meet EPA standards and the potential impact of the discharge of this filter upon ground water and hence two wells to the west of the site needs to be the subject of site-specific investigation.

(v) AA

- 5.1 The site does not lie within a Natura 2000 site. The nearest such sites are the Lower River Shannon SAC (IE002165) and the River Shannon and the River Fergus SPA (IE004077). The former site extends further along the River Ratty than the latter, which terminates on the southern side of the N18 river crossing to the south of Bunratty. The separation distance between the appeal site and this SAC is 1.85 km.
- 5.2 The proposal would risk pollution during the construction and operational phase. The former could result from construction activities and the latter from the discharge to ground water from the proposed waste water treatment system (WWTS). Proper construction management practise would minimise the likelihood of the former and regular maintenance of the WWTS would minimise the likelihood of the latter.
- 5.3 I not aware of any source – pathway – receptor route between the appeal site and the aforementioned Natura 2000 sites or any other such sites.
- 5.4 I, therefore, conclude that having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Conclusion

In the light of my assessment, I conclude that there is an in-principle reason for refusing the current proposal insofar as the applicants have not demonstrated that they have a rural generated housing need. I also conclude that, should the Board be minded to grant permission, the proposed landscaping of the site and the relationship that would emerge from the siting of the proposed soil polishing filter within the wider vicinity of two wells need to be elucidated and clarified prior to any such grant. I will follow the convention of drafting a reason for refusal that reflects the in-principle issue only.

Recommendation

In the light of my assessment, I recommend that the construction of a dwelling house, domestic garage, site entrance, waste water treatment and disposal system and all ancillary works at Brickhill East, Cratloe, Co. Clare, be refused.

Reasons and considerations

The applicants have not demonstrated that either one of them has a rural generated housing need in accordance with the advice set out in the Sustainable Rural Housing Guidelines for Planning Authorities. In particular, the applicants have not demonstrated that Cratloe Village, which is identified as a large village in the Clare County Development Plan 2011 – 2017, was in the past a rural area during their youth. Accordingly, as they are not from a rural area and they have not resided in a rural area for most of their lives, their housing need is not a rural generated one. Thus, to accede to their proposal would contravene the advice set out in the aforementioned Guidelines and, as such, it would be contrary to the proper planning and sustainable development to the area.

Hugh D. Morrison

Inspector

18th July 2016