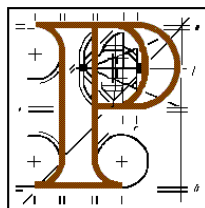


# An Bord Pleanála



## Inspector's Report

**DEVELOPMENT:** Permission for the construction of a new single storey 4 bedroom dwelling, accessed via the existing stud farm entrance and driveway, a wastewater treatment system with percolation area and all associated site works.

**LOCATION:** Clonbonane and Ballynahinch Cashel.

### PLANNING APPLICATION

**Planning Authority:** Tipperary County Council.

**Planning Authority Reg. No:** 16/600018

**Applicant:** Sherborough Development Company Ltd.

**Application Type:** Permission.

**Planning Authority Decision:** Refuse Permission.

### APPEAL

**Appellant:** Sherborough Development Co Ltd.

**Type of Appeal:** First Party v Refusal

**Observers:** None

**DATE OF SITE INSPECTION:** 5<sup>th</sup> August 2016

**INSPECTOR:** Bríd Maxwell

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal relates to a site which has a stated area of .25 hectares is located within a rural area circa 4.8km to the northwest of Cashel, and approximately 6.5km to the southeast of Dundrum in County Tipperary. The appeal site is part of an equestrian farm landholding which straddles both side of the local road within the townland of Clonbonane. The appeal site which is roughly rectangular in shape is relatively flat and is presently under grass and is located adjacent to the established southern stud farm entrance. There is an established single storey residence in use by employees of the stud farm located on the opposite side of the private entrance roadway.
- 1.2 The landscape in the vicinity is pastoral in character with agriculture being the predominant use. Settlement in the area consists of one off houses fronting onto the road network and a number of farmsteads.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development seeks permission for the construction of a single storey dwelling, accessed via the existing stud farm entrance and driveway, a wastewater treatment system with percolation area and all associated site works. The proposed dwelling with a floor area of 241 square metres has a hipped roof and ridge height of 7.9m. External finish includes select render with slate finish to roof.
- 2.2 Detailed clarified during the course of the application to the Council outlined that the proposed dwelling is intended to meet the housing need of the stud farm manager as a family home.

## **3.0 PLANNING HISTORY**

- 3.1 There is an extensive planning history within the landholding including the following:

- 11/72 Permission granted to for a two storey 5 bedroom dwelling vehicular entrance and driveway off the public road, wastewater treatment system with percolation area and all associated site works.
- 10/483 Permission granted to retain (l) increased depth from the public road of the two farm entrances construction of single storey L shaped stables building with 12 stables in lieu of previously granted American style barn stables (08/801) on north side of stud farm (3) construction of two lunging rings and horse walker as stand-alone buildings on east side of main yard instead of within a large shed covering all 3 on west side of main yard as previously granted (4) increase in size of machinery feed shed from 440 sq.m to 664 sq.m and its location on east side of main yard instead of sought side as previously granted (5) Construction of 7 mare shelter sheds (2 at south end of main yard and 6 next to north yard) for the wintering of mares.
- 10/482 Permission granted to retain alterations to previously granted gate lodge (ref 08/1168) next to the south farm entrance which includes an increase in floor area from 148 sq.m to 188 sq.m and the subdivision of the dwelling into three self-contained 1 bed units for the housing of stud farm staff.
- 10/239 Permission granted for the demolition of an uninhabitable two storey house
- 09/35 Permission sought for two storey over part basement 6 bedroom dwelling with balconies a new tree lined driveway, wastewater treatment system and percolation area and associated landscaping works - the proposed dwelling is within the curtilage of a protected structure. Application withdrawn.
- 09/34 Permission sought to retain previously demolished outbuildings and walls associated with Clonbonane House (b) permission for demolition of remaining two storey structure known as Clonbonane House – Protected structure. Application withdrawn.
- 08/1168 Permission granted for development consisting of the construction of a new 1.8m high random rubble stone wall in place of the existing boundary wall along the public road with a new gated

entrance off the public road, construction of a single storey 2 bedroom gate lodge with wastewater treatment system and percolation area on the North side of the public road next to the farm entrance (farm entrance gate planning reference 08/801) the construction of a single storey 2 bedroom gate lodge dwelling with percolation area and septic tank on the South side of the road next to the farm entrance planning ref 08/8801 the site is within the curtilage of a protected structure (Clonbonane House)/

- 08/801 Permission granted for retention of opening of new entrance off the public road formation of an access roadway and base cover for barn stables and permission for the creation of two new set back walled and gated vehicular entrances opposite each other off the public road and formation of access roads leading to stables and yard on each side of the public road. Construction of barn style stables with yard area and loading ramp off the new access road North of the public road, construction of a court yard stables, machinery and feed storage shed, horse training shed to house a walker with two lunging rings, dung store and all associated yard and drainage works. The site is within the curtilage of a protected structure Clonbonane House. A proposed gate lodge was omitted by condition.

#### **4.0 PLANNING AUTHORITY'S DELIBERATIONS AND DECISION.**

##### **4.1 Planning Authority Reports.**

- Area Engineer's report indicates no objection.
- Planner's initial report sought additional information regarding intended occupancy of the dwelling and details in relation to water supply and entrance details. Second report asserted that the proposal fails to comply with settlement policy. Refusal was recommended.

##### **4.3 Planning Authority's Decision**

The Planning Authority decided to refuse permission subject for 2 reasons as follows:

1. Policy SS4 of the South Tipperary County Development Plan 2009, as varied seeks to facilitate individual dwellings in the open countryside where an applicant can demonstrate eligibility under the criteria, as set out under Policy SS4. In order to satisfy the eligibility criteria for a person who has a functional need to live in a rural area the applicant must:

Demonstrate a land-dependant need to be at the location on the famer and meet either of the following criteria:

- (i) A farmer of the land – defined as a landowner with a holding of >20ha, or
- (ii) An owner and operator of an agricultural / horticultural / equine activity on an area less than 20 hectares where it is demonstrated to be of a viable commercial scale.

The proposed dwelling is for a farm manager who is not the farming landowner or the owner and operator of a land based enterprise. The Planning Authority is satisfied, having regard to the information submitted as part of this application that the applicant has failed to demonstrate that they satisfy the above requirements of Policy SS4. Having regard to the foregoing the proposed development is considered contrary to Policy S4 of the South Tipperary County Development Plan 2009, as varied. The proposed development would contravene the stated policy of the Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.

2. Policy T118 which relates to Public Water Supply states that it is the policy of the Council to require development proposals to connect to the public water supply here such facilities are available. Therefore, the applicant's proposal not to connect to the public water supply is contrary to policy T18 and would therefore be contrary to the proper planning and sustainable development of the area.

## **5.0 APPEAL SUBMISSIONS**

5.1 The first party appeal is submitted by Arthur Gibney and Partners Architects. Grounds of appeal are summarised as follows:

- First Party owns and runs the highly successful stud farm which was relocated from Kildare to Clonbonane and Ballynahinch in 2009.
- Permission 08/1168 was previously granted for two gate lodge dwellings for the purposes of providing onsite accommodation for the staff of the stud farm and only one was constructed.
- The second dwelling which was previously proposed adjacent to the northern entrance was not constructed.
- The principle of second dwelling on the site has already been established. It is proposed to relocate to southern side of road as more appropriate operationally.
- The need to reside on site is vital for farm manager particular during foaling season.
- In an enterprise of this size the manager fits the term 'farmer' of the land or operator of land based enterprise under policy SS4 of the South Tipperary County Development Plan 2009.
- The proposed dwelling will remain within the stud farm holding and will always be used as accommodation for direct farm staff. No objection to a condition restricting occupancy.
- As regards the issue of public water supply, it is the preference to connect to the existing well on site. However if required applicant is willing to connect to public water supply.
- Request that the Board overturn the decision of the local authority and grant permission.

## **5.2 Response of Planning Authority to Grounds of Appeal**

5.2.1 The response of the Planning Authority asserts that the decision to refuse permission was appropriate and in the interest of the proper planning and sustainable development of the area. The planning

authority fully considered all documentation submitted. The applicant did not have any preplanning to review the proposal against the varied development plan against which the proposal was assessed.

## **6.0 PLANNING POLICY**

### **6.1 NATIONAL POLICY**

6.1.1 The site is located in a rural area and in the context of the Guidelines and indicative map 1, is within an area defined as Traditionally Stronger Rural Areas. The Key objective in relation to these types of areas should be to consolidate and sustain the stability of the population and in particular to strike an appropriate balance between development activity in smaller towns and villages and wider rural areas. The Guidelines differentiate between rural and urban-generated housing whereby rural generated housing sustains and renews rural communities. Development driven by larger towns should generally take place within their built-up areas or in areas identified for new development. People of a rural area should be accommodated in their area of origin. In defining rural generated housing needs each application should be considered on a case-by-case basis. Matters to be taken into account include:

- Persons who are an intrinsic part of the rural community.
- Persons working full-time or part-time in rural areas.

The Guidelines emphasise that site-specific normal planning considerations should apply to all sites and address such issues as access, protection of water quality and natural and cultural heritage which includes landscape and seascapes and design considerations.

### **6.2 DEVELOPMENT PLAN**

6.2.1 The South Tipperary County Development Plan 2009 as varied is the statutory development plan for the area. The site is within the open countryside designation as set out in the Core Strategy.

#### 6.2.2 Policy SS4: Housing in the Rural Countryside

“It is the policy of the Council to facilitate individual dwellings in the open countryside for person(s) who are intrinsic to the area, have a demonstrated housing need, and who are seeking to provide a home for their own occupation. A housing need should be demonstrated in accordance with three possible categories:

Category A: Local Rural Person

Category B: Functional Need to live in a rural area, or

Category C: Exceptional Medical Circumstances.

#### Category B: Functional Need to Live in a Rural Area

Persons who can demonstrate a land-dependant need to be at the location of the farm and meeting either of the following criteria:

- (i) A farmer of the land – defined as a landowner with a holding of >20ha, or
- (ii) An owner or operator of an agricultural / horticultural / equine activity on an area less than 20 hectares where it is demonstrated to be of a viable commercial scale.

## 7.0 ASSESSMENT

7.1 Following my inspection of the site and consideration of the documentation on file, the prevailing local and national policies and plans, I propose to consider the appeal under the following broad headings:

7.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues for consideration in



the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Settlement Strategy
- Impact on the amenities of the area and Servicing
- Appropriate Assessment

## **7.2 Settlement Strategy**

7.2.1 As outlined above, the site falls within an area indicated as an area under open countryside within the South Tipperary County Development Plan 2009 (as varied) and within a stronger rural area as designated in the rural housing guidelines. Within the Development Plan it is the Council's Policy SS4 "To facilitate individual dwellings in the open countryside for person(s) who are intrinsic to the area, have a demonstrated housing need and who are seeking to provide a home for their own occupation." The "housing need" is defined within three categories as a Local rural person, a person with a functional need to live in a rural area or c to an applicant demonstrating need on the basis of exceptional medical circumstance.

7.2.2 The first party appeal makes the case for housing need on the basis of a functional need to live in this rural area as the house is intended for the needs of the stud farm manager and his family. It is asserted that the farm manager in this case would equate to "the farmer of the land – defined as a landowner with a holding of >20ha" definition within the Development Plan. I would concur with the first party appeal that in the unique circumstances of this appeal case the functional need to live in this rural area is clearly demonstrated. I consider that the application therefore demonstrates a local housing need in accordance with the requirements of the South Tipperary County Development Plan (as varied). I consider that the application demonstrates compliance with national and local policy to accommodate rural generated housing need where it arises. I further note that the planning history on the

landholding included the previous permission 08/1168 for a second dwelling adjacent to the northern entrance to accommodate stud farm staff on the landholding. This dwelling was not constructed and the grounds of appeal set out the justification for relocation of the dwelling to the appeal site for stud farm operational reasons. On the basis of my assessment I conclude that the principle of development is acceptable and in accordance with rural settlement policy as set out in the Rural Housing Guidelines and the County Development Plan.

### **7.3 Impact on the amenities of the area and Servicing.**

7.3.1 As regards the visual impact of the proposed development, the site is well screened and in visual terms the proposed single storey dwelling can be readily accommodated on site without significant impact on the visual amenities of the area.

7.3.2 The proposed development is proposed to be serviced by way of a wastewater treatment system and polishing filter. The site suitability assessment was carried out on site in December 2015 days after Storm Desmond which saw extreme rainfall in the locality. The assessment revealed the water table level at 1.1m below ground level. A T value of 22 and P value of 40.22 was determined. Based on the submitted details I consider that the engineered solution as proposed on site is will provide a suitable treatment for wastewater on site.

7.3.3 As regards water supply, the applicant proposed to connect to the existing well located a short distance to the southeast of the site. In light of the Council's second reason for refusal and Development Plan policy T18 "to require development proposals to connect to the public water supply, where such are available" the developer proposes to connect to the public water supply.

## **7.4 Appropriate Assessment**

7.4.1 As regards the issue of Appropriate Assessment having regard to the nature and scale of the proposed development and nature of the receiving environment and distance to the nearest European Site (circa 1km as the crow flies to the Lower River Suir SAC), 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 project on a European site.

## **8.0 RECOMMENDATION**

8.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The proposed development is considered to be acceptable having regard to the planning history on the landholding, to the pattern of development in the vicinity and the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities and the provisions of the South Tipperary County Development Plan 2009 (as varied). I recommend that planning permission be granted for the reasons set out below.

### **REASONS AND CONSIDERATIONS**

It is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the objectives of the current development plan for the area and the Sustainable Rural Housing Guidelines for Planning Authorities. The proposal would not be injurious to the existing rural amenities of the area, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received by the planning authority on the 22<sup>nd</sup> March 2016 except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the stud farm manager, members of the stud farm manager's immediate family or their heirs, and shall remain so occupied thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the farm manager's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

6. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Wastewater Treatment Manual – Treatment Systems for Single Houses" – Environmental Protection Agency 2000.

**Reason:** In the interest of public health.

7. The site shall be landscaped using only indigenous deciduous trees and hedging species in accordance with details which shall be

submitted to and agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape in the interest of visual amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

Bríd Maxwell  
Planning Inspector  
19<sup>th</sup> August 2016