



An
Bord
Pleanála

Inspector's Report PL92.246804

Development

Permission to construct a gate lodge building, use existing entrance with minor changes to achieve sight line, install septic tank and with all associated site works at Millgrove House, Tincurry, Cahir, Co Tipperary. The site contains Protected Structure Reference No S158.

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

16/600304.

Applicants

Donie & Aileen Corcoran.

Type of Application

Permission

Planning Authority Decision

Refuse Permission.

Appellant(s)

Donie and Aileen Corcoran.

Observer(s)

None

Date of Site Inspection

22nd September 2016.

Inspector

Bríd Maxwell.

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of .233 hectares is located within the rural townland of Tincurry circa 5.5km to the southwest of Cahir in County Tipperary. The appeal site which is roughly triangular in shape incorporates and extends immediately adjacent to the front entrance to Millgrove House a five bay, two storey over half basement country house which is protected structure S158 and is recorded as is of Regional Rating on the National Inventory of Architectural Heritage Ref: 22208112. Notably Millgrove House has been recently renovated.
- 1.2. The front entrance to Millgrove House from the public road is defined by decorative wrought iron gates set to dressed sandstone gate piers with caps. The north-eastern boundary of the appeal site with the public road is defined by hedging and trees. The entrance driveway to Millgrove House wraps around the southern boundary of the appeal site and this boundary and the north western boundary are defined by metal railing. The appeal site is currently under grass.

2.0 Proposed Development

- 2.1. The application seeks permission to construct a gate lodge building using the existing entrance, install septic tank and all associated site works. The proposed dwelling is a modest single storey hipped roof structure with a floor area of 75 m² and is to be finished with slate roof, west dash lime render and timber windows and front door. It is proposed to set back the existing hedgerow to the north of the entrance to achieve a sightline of 90 metres.

3.0 Planning Authority Decision

3.1. Decision

By order dated 31st May 2016 Tipperary County Council decided to refuse permission for the following reasons.

1. *“Policy SS4 of the South Tipperary County Development Plan 2009, as varied states that 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 any one of the categories (inter alia) set out below:*

Category A: Local Rural Person

- (i) *A ‘Local Rural Person’ in the ‘Open Countryside’ is a person who has lived in the rural area within 10km of the site for a minimum and continuous 10-year period. The Planning Authority is not satisfied on the basis of the information submitted that the above policy requirements have been satisfied by the applicants or proposed occupier of the dwelling. Having regard to the foregoing the proposed development is considered contrary to Policy SS4 of the South Tipperary County Development Plan 2009, as Varied. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*
2. *It is considered that the proposed development will result in additional traffic stopping and turning movements onto the roadway serving the site at a point where sightlines are substandard. The Planning Authority is not satisfied that proposals submitted demonstrate sightlines in accordance with Section 10.9.1 of the South Tipperary County Development Plan 2009, as amended. The Planning Authority considers the propose development would therefore endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *The application site is located within an area at risk of fluvial flooding as identified by the Preliminary Floor Risk Mapping provided by the Office of Public Works, The Planning Authority is not satisfied that the proposed development would not be at risk of flooding and would not raise flood risk issues. The proposed development*

would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- The report of the area planner notes that the 6-inch ordinance survey maps indicate that a lodge pre-existed on site. The development should be supported by a strong historical design rationale. Concern is expressed in relation to impact of proposed roadside boundary setback on entrance walls. As regards flood risk the site is within a flood risk zone as identified on the PFRA flood hazard maps (the entrance is within the 1 in 100 years flood risk zone) In the absence of a flood risk assessment the precautionary approach should apply.

3.3 Other Technical Reports and Third Party Observations

- Submission by Charles Richardson, Whitechurch Cahir. Historical case for a gate house should be considered in conjunction with housing need. The development should be an authentic representation of a mid-19th Century gate lodge.
- Irish Water Submission indicates no objection to the proposal.

4.0 Planning History

10/111 Previous refusal of permission for gate lodge septic tank and associated site works on grounds of traffic hazard and rural housing policy.

5.0 Policy Context

5.1 National Policy

5.1.1 The site is located in a rural area and in the context of the Sustainable Rural Housing Guidelines 2005 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.

5.1.2 I note the Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009. The Guidelines define three types or levels of flood zones:

Flood Zone A – where the probability of flooding from rivers and the sea is highest.

Flood Zone B – where the probability of flooding from rivers and the sea is moderate.

Flood Zone C – where the probability of flooding from rivers and the sea is low and covers all areas of the plan which are not in zones A or B.

The Guidelines promote a risk-based sequential approach to managing flood risk based on avoidance of development in areas at risk of flooding. If not possible the substitution of a land use that is less vulnerable to flooding and only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks. Exceptions to the restriction of development due to potential flood risks are provided for through the use of a Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated.

5.2 DEVELOPMENT PLAN

5.2.1 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.

5.2.2 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.

6.0 Natural Heritage Designations

The site is within the drainage catchment of the Lower River Suir SAC and is within approximately 6km of the lower River Suir SAC. The Galtee Mountains SAC is located circa 4km to the northwest of the site.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal are submitted by Tadhg Ó Foghlú can be summarised as follows:

- Council erred in its decision. The proposal is in effect a granny flat not an individual house and in its context a standalone dwelling is preferable to an extension to the protected structure.
- Historical evidence suggests the pre-existence of a gate lodge.
- Exceptional health circumstances are provided for within the rural housing guidelines. The house is intended for occupancy by the applicant's mother / mother in law.
- Entrance is an established entrance and additional traffic arising would not be significant.
- Flood risk is minimal.
- Applicant is willing to provide legal undertakings that the gate lodge will always form part of the overall site.
- Applicant is willing to commission a heritage architect to redesign the building if necessary and provide a heritage impact assessment to justify the design.

7.2. Planning Authority Response

7.2.1 The Planning Authority response notes the specific requirements of development plan policy within the South Tipperary County Development Plan 2009 as varied with

regard to Provision for Ancillary Family Accommodation at 10.11.8 which would not be satisfied by the proposal. Submission notes the potential to either alter or extend the parent dwelling on site or associated outbuildings to provide ancillary accommodation. No case for exceptional health circumstances or evidence of same have been put forward in the application and appeal documentation. The Planning Authority notes that sightlines at the entrance are deficient. As flood mapping identifies the site within a food risk zone the precautionary approach is appropriate. The Planning Authority requests An Bord Pleanála to uphold the decision to refuse permission.

8.0 Assessment

8.1 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. Servicing, traffic and flooding.
- Appropriate Assessment

8.2 Settlement Strategy

8.2.1 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 an applicant demonstrating need on the basis of exceptional medical circumstance.

8.2.2 The first party appeal makes the case for housing need on the basis that the house is intended for occupancy by a parent of one of the owners of the main dwelling. Whilst reference is made within the appeal to “exceptional medical circumstances” in the context of the rural housing guidelines 2005 no details are provided to support such a case. I note in this context that the rural housing guidelines state that “planning authorities should recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support”. I note that within the previous application for a gate lodge in 2010 (PA Ref: 10/111) the stated purpose of the then proposed dwelling was to accommodate a farm manager and this anomaly is curious.

8.2.3 I would tend to concur with the local authority that no case for exception has been made in the current application. If the proposal were to be considered in the context of a “granny flat” the provisions of the development plan with regard to ancillary family accommodation (10.11.8) would need to be considered. I further concur with the planning authority’s assertion within the response to the appeal that the possibility for accommodating any such family housing need within the established Millgrove House and adjacent structures should be explored. A further curiosity arises from the fact that Millgrove House is currently being advertised as available for letting on a number of property websites. (www.rent.ie, www.tixuz.com). The adverts refer in the property description to the 6 bedroomed Millgrove House as well as a stone house in the yard incorporating a separate apartment. The property is noted to be available for minimum 1-year lease from the 23 August 2016.

8.2.4 On the basis of the evidence before me, I would tend to concur with the view of the planning authority a functional need to create an additional dwelling unit in this rural area has not been clearly demonstrated. I consider that the application therefore does not comply with the local housing need in accordance with the requirements of the South Tipperary County Development Plan (as varied) or the Rural Housing Guidelines. As regards a historic justification for the development in terms of the pre-existence of a historical gate lodged there is no relevant provision within the policy context for such reinstatement. On this basis I consider that the principle of development is not in accordance with rural settlement policy as set out in the Rural Housing Guidelines and the County Development Plan.

8.3 Impact on the amenities of the area and servicing, traffic and flooding.

8.3.1 As regards the design and character of the proposed dwelling and the question of whether, in the event of the development being acceptable in principle, the house design should reproduce an earlier historical structure, I would note that good architectural heritage practice would avoid attempts at disguising new structures as historic fabric. Given the standalone nature of the proposal a degree of flexibility would apply. As regards the proposed roadside boundary alterations to improve sightline visibility to the northwest of the entrance I note that the extent of roadside boundary removal proposed is somewhat unclear. I consider that having regard to the established nature of the entrance, the nature of the road and level of traffic thereon and to the potential traffic arising from a single dwelling the requirement for sightline improvement could be achieved with minimal intervention and without impacting upon the historic gate entrance. I further note that significant level of hedgerow removal would have a negative impact on the setting and character of the protected structure and on the general rural amenity of the area. I do not consider that the issue of traffic presents as a barrier to development.

8.3.2 The proposed development is proposed to be serviced by way of a septic tank and percolation area. The site suitability assessment was carried out on site in February 2010. The trial hole excavated to 2.2m did not encounter water table nor bedrock. A T value of 11 and P value of 18 was determined. Based on the submitted details I consider that the septic tank and percolation area will provide suitable treatment for wastewater on site in accordance with EPA standards. As regards water supply, the applicant proposes to connect to the public scheme.

8.3.3 On the issue of flooding the site lies within an area at risk of flooding as identified by the preliminary flood risk mapping provided by the Office of public works. I note the recommendations of the Planning System and Flood Risk Management, Guidelines for Planning Authorities 2009 which recommend a precautionary approach. In the absence of a detailed flood risk assessment I would concur that the precautionary approach should apply.

8.4 Appropriate Assessment

8.4.1 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 (in excess of 6km as the crow flies to the Lower River Suir SAC and 4km from the Galtee Mountains 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.

9.0 RECOMMENDATION

9.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission should be refused for the reasons and considerations as set out below.

Reasons

1. Having regard to the objectives of the current Development Plan and the “Sustainable Rural Housing Guidelines of Planning Authorities” issued by the Department of Environment, Heritage and Local Government in April 2005, and the provisions of the South Tipperary County Development Plan 2009, as varied, it is considered that based on the information submitted, that the applicant has not demonstrated that the development is rural generated housing as defined by the criteria outlined in the guidelines and the development plan. The proposed development would therefore, contravene Policy SS4 of the Development plan and therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the identified risk of flooding at this location and to the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 the Board is not satisfied on the basis of the information provided that proposed development would not give rise to the creation of a flood risk. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Brid Maxwell

Planning Inspector

28th September 2016