



An
Bord
Pleanála

Inspector's Report PL04.247344.

Development	Retention of existing floor slab as constructed and completion of dwelling house as granted under planning ref. 06/10473.
Location	No. 7 Gleann Ean, Glenville, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	16/4178.
Applicant(s)	Stephanie Lucey.
Type of Application	Retention & Completion Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Stephanie Lucey.
Observer(s)	None.
Date of Site Inspection	08/12/2016.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located approximately 20km to the north of Cork City in the townland of Glenville. The site is a site which is located within an existing residential estate and which lies to the south east of Glenville. There are a small number of undeveloped plots remaining to be developed within the Gleann Ean estate.
- 1.2. The site lies to the west of the regional road, R614, and is accessed over the local road network. The site covers a stated area of 0.097ha and is an infill site within the established residential estate.
- 1.3. The site is currently partially developed, with foundations and the slab for the house, previously permitted under 06/10473, already constructed.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of existing floor slab as constructed and completion of dwelling house as granted under planning ref. 06/10473, all at No. 7 Gleann Ean, Glenville, Co. Cork.
- 2.2. The foundations and floor slab for the previously permitted house has been constructed on the site of 0.097ha, and when complete, the single storey house will have a stated floor area of 184m². Accommodation to be provided includes an ensuite master bedroom, three further bedrooms – two double, one single, family bathroom, playroom living room, utility, and kitchen / dining room. The building rises to approximately 5.3m in height.
- 2.3. The proposed house will be finished using a smooth plaster finish with natural stone to the front projecting bays, uPVC windows and black slates to the roof. The soffit and fascia will be dark uPVC and the front door will be a solid timber door.

3.0 Planning Authority Decision

3.1. Decision

Cork County Council decided to refuse planning permission for the proposed development, for the following stated reason:

It is considered that the proposed development is premature pending the upgrade of the existing Glenville Waste Water treatment Unit. The plant as it currently operates has been identified to be a likely source of negative impact on a number of qualifying features for which the Blackwater River Special Area of Conservation (SAC) has been designated. It has not been sufficiently demonstrated in the application that the proposed development would not result in contributing to a significant negative effect on the SAC, when cumulative effects are considered and, would therefore be contrary to the proper planning and sustainable development of the area and, would be contrary to policy objectives HE 2-1 & 2-2 of the 2014 Cork County Development Plan which seek to protect all nature conservation sites and protected species.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report considered the proposed development in terms of the planning context of the subject site, the planning history and details of the proposed development, siting and design, engineering issues, and internal reports. The report concludes that in principle the proposed development is acceptable and accords with the existing houses in the wider permitted estate. Notwithstanding this, the concerns of Ecologist are required to be addressed prior to further consideration of the proposal. FI required

Following receipt of the response to the FI, the Planning Report concludes that the issue regarding the discharge from the WWTP is significant and therefore regard must be had for the mitigation outlined in the Cork County Council commissioned NIS states that no further planning permissions will be granted which would increase the loading of the plant. Refusal is recommended.

3.2.2. Other Technical Reports

- The Area Engineer submitted a report advising no objection to the proposed development subject to compliance with conditions.
- The Ecologists report notes that treated effluent from the Glenville Wastewater Treatment Plan is discharged into the Owenbaun River which forms part of the

Blackwater River SAC. The plant is currently organically and hydraulically overloaded and is failing to comply with Emissions Limit Values set under its Waste Water Discharge License. The Annual Environmental Report, 2016, states however that discharges from the plant are not having an observable impact on water quality. The report advises concern that permitting additional loading to an already overloaded plant may contribute to cumulative negative impacts on water quality, and could interfere with the achievement of some of the Conservation Objectives for the SAC. It is requested that a Habitats Directive Screening Report, prepared by a suitably qualified and experienced ecologist, be submitted.

Following receipt of the response to the further information request, a second report from the Ecologist was submitted. This report considers that the response to the FI request is not a Habitats Directive Screening Report as requested. The report notes that the plant is recorded by IFI in the NIS prepared for its discharge licence, as being an 'example of plants where chronic overloading leads to poor riverbed conditions in the immediate vicinity of the discharge.' The NIS raises concerns in relation to the plant and its possible effects on Salmon, Lamprey spp and Otter and there is an undertaking that no further planning permissions will be granted which would increase the loading to the plant until upgrading or replacement of the WWTP is completed. Refusal is recommended.

- The Liaison Officer submitted a report noting that the issue of concern relates to the impact of the proposed development on the Glenville Wastewater Treatment Plan. There is no necessity for comment.

3.3. Prescribed Bodies

None.

3.4. Other Reports

Irish Water has advised no objection to the proposed development.

3.5. Third Party Observations

There are no third party observations noted.

4.0 Planning History

The following is the relevant planning history associated with this site:

PA ref 01/1047: Permission sought for site development works for 24 houses. permission was granted on the 24th October, 2002 subject to conditions.

PA ref 06/10473: Permission granted for the construction of a bungalow on the site on the 19th January, 2007 to Mr. Dave McCarthy.

PA ref 06/4412 and PA ref 06/4394 relate to permissions for houses on the sites immediately adjoining the subject site.

PA ref 04/7234, PA ref 05/787, PA ref 05/5513, PA ref 05/6343 relate to permissions granted for houses within the permitted estate.

5.0 Policy Context

5.1. County Development Plan, 2014:

5.1.1. The Cork County Development Plan, 2014 is the relevant planning policy document. The subject site is located within the Greater Cork Ring Strategic Planning Area, within the development boundaries of Glenville. The wider rural area around Glenville has been identified as being a Rural Area under Strong Urban Influence. In terms of the designations afforded to the subject site, the following policy objectives are considered relevant:

5.1.2. The Core Strategy of the Plan makes provision for new housing requirements within the settlement network, of which Glenville is included.

5.2. Blarney Local Area Plan, 2011

5.2.1. Glenville is identified as one of five Key Villages in the LAP area. The LAP provides that the target for housing up to 2020 is 100 with 120 units outstanding in 2010. The site the subject of this appeal is included in that number.

5.2.2. Objective LAS 2-1 of the LAP deals with Water & Waste Water Infrastructure Objective and provides as follows:

- a) In line with the principles set out in the County Development Plan 2009, and the provisions of objectives INF 5-6, INF 5-7 and INF 5-8 of the

County Development Plan, development proposed in this plan will only take place where appropriate and sustainable water and waste water infrastructure is in place which will secure the objectives of the relevant River Basin Management Plan and the protection of Natura2000 sites with water dependant habitats or species. This must be provided and be operational in advance of the commencement of any discharges from development.

- b) Waste water infrastructure must be capable of treating discharges to ensure that water quality in the receiving river does not fall below legally required levels. Sustainable Urban Drainage Systems (SUDS) will be required for all developments discharging within or upstream from Natura 2000 sites with water dependant habitats or species.

5.2.3. In addition, the LAP provides at section 2.2.49, that ‘in Glenville, the public waste water treatment facilities currently available are limited. The village has a small treatment unit, which has a population equivalent (PE) design capacity of 300. The treatment unit is currently operating at a PE of 540. The “Assessment of Water Services Needs 2009” recognises that there is a need to upgrade the waste water treatment plant. The scheme however was not listed in the Water Services Infrastructure Programme 2010-1012.’

5.2.4. In terms of the Landscape Character type, the area is identified as Valleyed Marginal Middleground, Type 13b Landscape, to which the Landscape Character Assessment for Cork, 2007, affords a medium sensitivity and value to the landscape, which is of local importance.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal, against the decision of Cork County Council to refuse planning permission for the development as described. The grounds of appeal are summarised as follows:

- Permission for the overall estate was granted under 01/1047 and for the subject site under 06/10473.

- Commencement Notice submitted for the development and development contributions paid which included connection to foul sewer.
- The development commenced at the time, with the foundations, rising wall and floor slab constructed. Connection provided for foul sewer, storm sewer and water. The current application makes no reference to connections to foul sewer and there were no objections noted from the Area Engineer in this regard.
- The Cork County Council Annual Environmental Report 2016 states that the discharges from the Glenville WWTP are not having an observable impact on water quality.
- The County Council Ecologist makes no reference to the Report by Dr. O'Connor who addressed the Habitats Directive, and who has shown that there will be no significant impact to the Natura 2000 site.
- The use of language in the Ecologist report is suggestive only and without clear definition. Applicants reports have used scientific data to back up all statements.

It is requested that the decision be overturned and that permission be granted for the proposed development.

6.2. **Planning Authority Response**

The PA has not responded to this appeal.

6.3. **Observations**

None.

7.0 Assessment

7.1. Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development
2. Visual & Residential Amenity Issues
- 3: Servicing issues
- 4: Appropriate Assessment

7.2. Principle of development

7.2.1 The subject site is located within the development boundary of the settlement of Glenville which lies approximately 20km to the north of Cork City. The subject site is located within an existing residential estate which lies to the north of the River Owenbaun River. Glenville is covered under the Blarney LAP and provides a number of zoning objectives for the settlement. The subject site is zoned for residential purposes. Having regard to the location of the subject site, which lies between two existing houses within the residential estate, together with the zoning afforded to the site, I am satisfied that in principle, the proposed development is acceptable.

7.2.2 The subject site has had the benefit of planning permission for the construction of a house under planning reference, 06/10473. Works were commenced on the site following receipt of the decision to grant planning permission, and the appellant submits that all relevant development contributions were paid to the County Council for connections to the existing public services, including the public waste water treatment system. The existing site is currently occupied by the floor slab and there are pipes visible. In principle, there is no objection to the proposed development which is described as the retention of existing floor slab as constructed and completion of dwelling house as granted under planning ref 06/10473.

7.3. Visual & Residential Amenity Issues

7.3.1 In terms of the proposed design of the house, I have no objection in principle. The design reflects that of the permitted house on the site under 06/10473 and if

permitted, will relate to the other existing houses within the residential estate. In addition, I am satisfied that there are no residential amenity issues arising.

7.4. Site Suitability

Water Services:

- 7.4.1. In terms of potable water supply, the applicant proposes to connect to the public water supply. There is no objection noted from the Area Engineer in this regard, and Irish Water has advised no objection to the proposed development.
- 7.4.2. In terms of surface water disposal, it is proposed to connect to the public mains. The Area Engineer has raised no objections in this regard.
- 7.4.3. The primary concern arising in relation to the proposed development relates to the treatment and disposal of waste water arising from the proposed house. The Board will note that the existing WWTP in Glenville is currently operating over capacity and the Cork County Council Ecologist has raised significant concerns in relation to the permitting of additional loadings to an already overloaded plant. In particular, concern is raised in terms of the cumulative negative impacts on water quality within the receiving waters, which is the Owenbaun River and which forms part of the Blackwater River Special Area of Conservation. In response to the further information request, the applicant submitted a report seeking to address the concerns.
- 7.4.4. The response advises that the proposed development, being a single house, was included in the PE calculations for loading in the WWTP when the application to the EPA for a discharge licence was made. It is therefore considered that the proposed development does not result in an increased loading on the plant, as it has been already accounted for in the reported calculations. It is further submitted that the development will not result in an increased loading which would alter the quality of the water within the receiving river. Ultimately, the PA relied on the report of the Ecologist to refuse permission for the development on the basis of prematurity pending the upgrading of the WWTP and the fact that the plant has been identified as being a likely source of negative impact on a number of the qualifying features for which the Blackwater River SAC has been designated. As part of the response to the further information request, an AA Screening Report was prepared. The Board will note that the Cork County Ecologist considered that a Habitats Directive Screening

Report was not submitted. This is inaccurate, in my opinion, as a report is on file. I will discuss AA issues further below.

7.4.5. In order to establish the facts to assist in determining this appeal, I suggest that the following series of events is considered relevant:

- Planning permission was granted for the overall estate under 01/1047.
- A number of planning permission were permitted in 2006 pertaining to the estates development including 06/10473 which specifically relates to the subject site.
- In 2011 the Blarney LAP was adopted, details presented above at section 5.2 of this report, which identifies the settlement of Glenville as one of five key villages. The subject site is zoned for residential purposes and a number of objectives are stated which relate to waste water infrastructure.
- LAP provides at section 2.2.49, that ‘in Glenville, the public waste water treatment facilities currently available are limited. The village has a small treatment unit, which has a population equivalent (PE) design capacity of 300. The treatment unit is currently operating at a PE of 540. The “Assessment of Water Services Needs 2009” recognises that there is a need to upgrade the waste water treatment plant. The scheme however was not listed in the Water Services Infrastructure Programme 2010-1012.’
- Since the adoption of the LAP, there have been no planning permissions granted for houses requiring connections to the public WWTP (two separate permissions were granted, 13/5222 for site development works for 1 house including private WWTP and 15/4903 for a house with private WWTP. Both sites lie just outside the settlement boundary.
- The most significant planning permissions granted since the adoption of the LAP were in 2011 and 2012 for a school extension and new school under 11/5209 and 12/6472 respectively. In terms of the servicing of the school, the Board should note that the new school details provided as follows:
 - ‘It is proposed to provide separate storm and foul systems as part of the new development. As the storm water will no longer be discharging into the foul system, and as there will be no significant change in student numbers, will reduce the overall load on the foul system.’

7.4.6. An application for a discharge licence was made to the EPA (documents dated 26/01/2010 on EPA website). In terms of the documentation submitted in support of the application, the Board will note that the only reference to pending developments in Glenville was in relation to file reference 09/5419. Section B9(ii) of the application deals with Pending Developments and states as follows:

The calculated PE to be contributed to the WWW as a result of planning applications within the agglomeration boundary that have been granted but have not yet been commenced or completed is 380. However, 296 of the total calculated PE relates to Planning Reg. Ref. 09/5419, a residential development of 64 no. dwellings and 10 no. serviced sites. This application will not be granted permission if the existing WWTP is not upgraded or replaced.

7.4.7. In addition to the above, the Board will note that the application concluded that the calculated PE to be contributed to the WWW as a result of the planning applications granted since 2005 is 60. The PE of 4 associated with the current appeal was considered to be 'actual' rather than 'pending'. As such, it might be considered that the applicant / appellant is correct in their assumption that the proposed house has been included in the licence for the WWTP and will have no effect on the loading of the plant.

7.4.8. On the 12th of August, 2013, the EPAs Inspector prepared their report for the Waste Water Discharge Licence for the WWTP. The Board will note that the EPAs inspector reached her decision based on the information presented and available including the fact that 'the applicant has stated that no further planning applications will be granted which would increase the loading to the existing WWTP.' The report also notes that 'there are no planned improvements proposed by the applicant for Glenville WWTP. Plant upgrade and/or improvement will be required to achieve ELVs of 15mg/l BOD, 125mg/l COD, 25mg/l Suspended Solids, 0.5mg/l Orthophosphate as P and 1.5mg/l Ammonia as N from 22nd December 2015.' In terms of AA, the Inspector concludes that 'it is unlikely that the discharge from Glenville WWTP will have a significant impact on the European Site.'

7.4.9. Irish Water prepared the Annual Environmental Report for the WWTP in 2015. The report identifies that the discharges from the agglomeration has failed with regard to

BOD, COD and TSS in terms of the ELVs set in the wastewater discharge licence. The non-compliance is indicated as being due to the plant being overloaded.

- 7.4.10. Overall, and while I acknowledge the submission on file with regard to the treatment and disposal of waste water arising from the site, I consider that, on balance, the proposed development is acceptable. Having regard to the planning history of the site, the current condition of the site and in light of the unfinished nature of development on the subject site, together with the limited scale of the proposed development, a pragmatic approach should be taken to allow this site should be allowed to be completed in the interest of the amenities of existing occupied dwellings immediately adjacent to the site. The Board held this view in relation to a recent similar development in Killarney, Co. Kerry PL08.246790 refers, which I consider a reasonable approach. As such, I am satisfied that overall, if permitted, the development is acceptable and would constitute an appropriate form of development on zoned lands.

Roads & Access:

- 7.4.11. Access to the proposed development site is over public roads and the existing estate road. I am satisfied that a grant of permission in this instance, would not result in a traffic hazard.

7.5. Appropriate Assessment:

- 7.5.1. In terms of AA, the Board will note that the applicant, as part of the response to the further information request, submitted an AA Screening Report. The Board will note that the Cork County Ecologist considered that a Habitats Directive Screening Report was not submitted. This is inaccurate, in my opinion, as a report is on file. The subject site is located within 140 metres of an cSAC, being the Owenbawn River, which comprises part of the Blackwater River (Cork / Waterford) cSAC, Site Code 002170. The development itself does not directly involve the cSAC but the proposal to connect to the public WWTP has the potential to effect the European Site. The WWTP discharges treated waste water to the Owenbawn River and it is accepted that this WWTP is operating above capacity and is significantly overloaded. This matter was addressed by the EPA licencing inspector.

- 7.5.2. The Cork County Council commissioned Blackwater NIS, 2011¹, at Appendix 24, presented an AA Screening & Assessment which concluded that the potential for negative impacts of the poor quality effluent discharging from the WWTP serving the Glenville Agglomeration to a key conservation objective of the Blackwater River (Cork / Waterford) cSAC cannot be discounted. This NIS submits that no further planning applications will be granted whereby the waste water arising from those applications would discharge to the existing WWTP. Permissions will only be granted following the upgrading or replacement of the plant.
- 7.5.3. With regard to Appropriate Assessment, the Local Authority Planner in their report refers to the report submitted by the Ecologist. Neither undertook a substantial AA screening and concluded that it had not been sufficiently demonstrated in the application that the proposed development would not result in contributing to a significant negative effect on the SCA and recommended that permission be refused on this basis.
- 7.5.4. The proposed development, the subject of this appeal, itself, is located outside any Natura 2000 site and will not result in direct impacts in terms of land-take or removal of habitat concerned. The appeal site however, is serviced by an existing wastewater treatment system located to the south of the site which does lie within the cSAC and discharges into the Owenbawn River, part of cSAC. I note the concerns raised by Planning Authority and the requirements of the EPA discharge licences associated with the WWTP in this regard. I also note that the WWTP is not programmed for upgrade due to lack of funding.
- 7.5.5. The conservation objective for the Blackwater River (Cork / Waterford) cSAC, Site Code 002170 is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. In terms of the subject site, the species which has potential to be impacted upon is the River Lamprey and the Brook Lamprey given that they are noted approximately 2.5km to the north of the site. While I accept the concerns of the Planning Authority in terms of the potential impacts associated with the proposed development, I am satisfied that the applicant, through their consultants, have presented adequate

¹ Ryan Hanley Consulting Engineers were contracted by Cork County Council to carry out an assessment of the potential ecological impacts of the effluent discharging to the River Blackwater catchment from a series of WWTPs in North Cork and prepare a Natura Impact Statement (NIS).

information to satisfy me that the potential for significant effects arising on the said Natura 2000 site, alone or taken in combination, can be ruled out.

7.5.6. The applicant submitted an Appropriate Assessment screening report and notwithstanding the issues with the WWTP, I am satisfied that the additional loading on the system is minimal and inadequate to negatively impact upon the cSAC into which the system discharges under licence. I note from the EPAs AA of the WWTP which states as follows:

‘Therefore, having regard to the nature and scale of the proposed development and / or nature of the receiving environment and / or proximity to 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.’

As such, I am satisfied that the proposed development, individually or in combination with other plans and projects would not be likely to have a significant effect on a European site.

8.0 Recommendation

I recommend that planning permission should be granted for the proposed development, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2014, the Blarney Local Area Plan 2011, to the planning history of the site and to the limited nature and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development be an acceptable development, would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

10.0 CONDITIONS

1. The development (including foundations and floor slab to be retained) shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and 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.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

A. Considine

Planning Inspector

14th December, 2016