



An
Bord
Pleanála

Inspector's Report PL03.247576

Development	Construction of a new dwelling, shared entrance and associated site works and alterations to existing dwelling and associated site works. .
Location	Ballycorey, Gort Road, Ennis, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	16/665.
Applicant(s)	Michael Wynne and Noreen Wynne.
Type of Application	Permission.
Planning Authority Decision	Spilt decision.
Type of Appeal	First Party.
Appellant(s)	Michael Wynne and Noreen Wynne.
Observer(s)	None.
Date of Site Inspection	18 th of January 2017.
Inspector	Karen Hamilton.

1.0 Site Location and Description

- 1.1. The subject site is located to the north of Ennis, Co Clare and includes a single storey detached dwelling accessed directly off the R458. The area to the south of the site, toward Ennis, includes a mix of agricultural and one-off houses, and to the north is a commercial business park.
- 1.2. The site is 0.27 ha in size, bounded to the south by mature trees and hedging and to the north there is a single storey rural dwelling beside an ESSO garage and motor showroom. A 110kv overhead power line traverses the site along the south.

2.0 Proposed Development

- 2.1. The proposed development includes the following:
 - Construction of a single and half dwelling (130m²) with shared access, public sewer connection and ancillary works,
 - Alterations to the existing dwelling, including 2 no windows along the south-west elevation, public sewer connection and shared entrance.

3.0 Planning Authority Decision

3.1. Decision

Split decision to:

- Grant permission for alterations to the works to the existing dwelling including the 2no windows proposed along the south-west elevation and;
- Refuse the new dwelling, public sewer connection and ancillary works for reasons of traffic hazard, public health and impact on adjoining residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the split decision and may be summarised as follows:

- The area is characterised by low density housing, therefore the proposal is not in keeping with the surrounding area nor the zoning objective.
- The proposal for two entrances and internal vehicle circulation will cause a traffic hazard and have a negative impact on the residential amenity of the existing dwelling.
- There is insufficient information regarding the foul sewer, therefore refusal is recommended on public health issues.
- There is insufficient information on the provision of open space for both the existing and proposed dwelling.

3.2.2. Other Technical Reports

Roads Design Office- Further information requested on the extinguishment of the existing entrance.

3.3. **Prescribed Bodies**

Irish Water- Further information requested on the foul sewer connection.

3.4. **Third Party Observations**

No submissions received.

4.0 **Planning History**

No planning history on the site.

5.0 **Policy Context**

5.1. **Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (DoEHLG,2008).**

5.2. **EPA Code of Practice: Wastewater Treatment Systems for Single Houses, (2000).**

5.3. Clare County Development Plan 2017-2023

The site is zoned as “*Existing Residential*” in Volume 3 of the development plan, Ennis Municipal District, where single dwellings are open for consideration if they are for permanent occupation. The objective allows for small scale infill if it respects the character of the area and enhances existing residential communities.

- Site is located in the Ballycorey/ Ballymaley Neighbourhood.

Section A1.9.2: Sight Lines

5.4. The decision of the planning authority was made under the previous development plan, the following zoning and polices are included in the planner’s assessment and the grounds of appeal.

Ennis and Environs Development Plan 2008-2014 (as extended by the Electoral, Local Government and Planning and Development Act 2013)

- The site is zoned as **OSL** “*Other Settlement Land*”. Multiple units of houses or apartments will not be permitted on O.S.L. Exceptions to this were in two individual parcels of land.
- **Table 19.2:** Indicative Land Use Zoning Matrix refers to “Housing” as generally not permitted in OSL zoned lands.
- **Appendices: A1.14 Rural Residential Development** relates to residential development which is generally rural in nature. The minimum site is of 02. ha (0.5acres) is required to accommodate the requirements for the waste water treatment systems, minimum site frontage onto a public road is 30m although may be relaxed. The design and siting to be appropriate to the surrounding area.

5.5. Natural Heritage Designations

The subject site is located approx. 2km east of the Ballyallia Lough SPA and 500m north of Ballyallia Lake SAC.

5.6. Grounds of Appeal

The grounds of appeal submitted from the applicant may be summarised as follows:

- The zoning for “*other settlement land*” allows for suitable limited development and residential development.
- The area to the south of the site limited to Ennis town includes a mix of ribbon residential and a significant number large commercial proposals have been granted within a 400m radius from the site.
- Reference to the Ennis and Environs Development Plan 2008-2014.

5.7. Planning Authority Response

The planning authority response may be summarised below:

- The proposed development is not in keeping with the character of the adjacent dwelling and as such does not comply with the zoning on the site “*other settlement lands*”.
- It is noted various site layout options have been submitted, should the Board grant permission it is requested only one entrance is permitted.
- It is requested the view of Irish water is sought and considered for the connection to the public sewer. No details of any wayleave for sewer connection No 1 or cost effectiveness calculation for connection No 2. If the public system cannot be accessed, then it is unclear if the site can accommodate two separate treatment systems.

5.8. Observations

No observations were submitted.

5.9. Further Responses

The agent on behalf of the applicant has responded to the planning authority submission to state the following:

- There is a mixed range of style of dwellings in the vicinity of the site.

- The retention of the existing entrance and a new entrance for the proposed dwelling would allow sufficient open space allocation for the existing dwelling.
- Costings for the proposed sewer connection No 1 and No 2 have been estimated and submitted and it is stated these are reasonable. Should neither of these connections be viable it is argued the sites are large enough to accommodate two separate water treatment units.

6.0 Assessment

6.1. The applicant has submitted revised plans with the grounds of appeal (21st of Nov 2016) which includes an option to remove the existing vehicular entrance, additional turning areas within the site and two possible options for connection into the public foul sewer. In addition to this the applicant submitted further revised plans in a response to the planning authority submission (09th of Jan 2017) which include costings for the two public sewer connections and an alternative option to provide two wastewater treatment systems.

6.2. No amendments were proposed to the alterations for the existing dwelling along the south east façade including replacement of window with a sliding door, new rear door and amendment to existing windows and two new windows to the south elevation. I have assessed these alterations which I consider minor in nature and of such a scale that they would not have a negative impact of any properties in the vicinity. No submissions were received in relation to these observations, therefore, for the purposes of my assessment I have had sole regard to the proposal for a new dwelling at this site.

6.3. The main issues of the appeal can be dealt with under the following headings:

- Principle of development
- Access
- Private Open space
- Visual Amenity
- Water and Waste Water
- Other Matters

- Appropriate Assessment

Principle of Development

6.4. The proposed development includes a new dwelling adjacent to an existing dwelling along the main R458 leading north from Ennis. The site is zoned in the recently adopted Clare County Development Plan as “Residential” which permits residential development where it complies with other development management standards. I note the site was zoned for “OSL: Other Settlement Land” in the Ennis Development Plan 2008-2014, which had been extended, and only permitted multiple residential units in exceptional circumstances of which this site was not included. In addition to the zoning, I note Policy ZL1, Zoning Objectives Matrix as detailed in Table 19.2 of the development plan (as varied) did not include “Housing” as a permissible use. The first reason for refusal referred to the zoning objective OSL and the principle of development. The grounds of appeal argue the site is suitable for residential development. I consider the “residential zoning” is applicable to this proposal. Therefore, based on the zoning in the current development plan, I consider the principle of the proposed development is acceptable, subject to compliance with the issues raised below.

Access

- 6.5. The subject site is included within the development boundaries of the municipal area of Ennis and outside the 50km/h restriction zone. The proposed development includes a shared entrance onto the R458, in addition to the existing entrance. The R458 is not listed as a Strategic Regional Route in Table 8.1 of the development plan.
- 6.6. The second reason for refusal refers to the potential for cars reversing onto the regional road and also the provision of two additional entrances close together both of which would give rise to a traffic hazard. The report of the Traffic Section raised concern over the use of both entrances and requested the existing entrance was extinguished. The grounds of appeal have submitted design alternatives to address the issues raised in the second reason for refusal by closing the existing entrance therefore creating sufficient car parking spaces and associated turning areas for the existing and proposed dwelling. The response from the planning authority requests

that should the development be granted, a condition to restrict access via the shared entrance, would be imposed.

- 6.7. Section A1.9.2 of the development plan provides guidance on the required sightlines for entrances, where the subject site would require an x distance of 2m and y distance of 160m. The proposed development includes a x distance of 2.4m and a y distance of 280m to the south and 160m to the north. In addition, Section 4.4.5 in the Design Manual for Urban Roads and Streets (DMURS) states that a reduced 2m x distance should be used with caution along major carriageways where the vehicle is required to protrude to view traffic. I note the hard shoulder runs along the front of the site, with no restrictions on overtaking, and I consider the visibility splay and the sightlines are in compliance with the national and local standards. The existing access is located 6m to the north-east of the proposed entrance and within the visibility splay required for the shared entrance, I consider the use of two entrances at this location would be cause a traffic hazard. Therefore, based on the distance from the proposed access, I consider the extinguishment of the existing entrance is required for the safe access and regress of vehicles through the proposed shared access. I consider it reasonable to attach a condition to this effect.

Private open space.

- 6.8. The site is located along a main road radiating north from Ennis and the area between the town and site is characterised by individual dwellings on single plots of varying sizes. The subject site is 0.279 ha in size and the proposed development includes the sub division of an existing site to accommodate an additional dwelling. The first and second reason for refusal referenced the negative impact of the proposed development on the existing dwelling due to the removal of open space. The existing dwelling has a yard, approx. 150m², and garage to the rear and the proposed development includes an additional 700m² to the rear, although a significant portion of this is unusable marsh land and flood risk maps accompanying the development plan include the rear section of the site as Flood Risk Zone A. The proposed rear open space for the new dwelling is 150m² which I consider sufficient.
- 6.9. The grounds of appeal have attempted to address the reason for refusal and have submitted additional layouts (21st of Nov 2016) illustrating internal circulation space for parking on the site. I note the existing entrance is removed to accommodate

sufficient turning for 4 cars to the rear of the existing dwelling. I note the development plan does not have a minimum requirement for open space provision. Therefore, based on the significant size of the site and current space to the rear, I consider there is sufficient space for private amenity space for the existing dwelling.

Visual Amenity

- 6.10. The subject site is located in a rural setting, although the majority of development along this section of the road, out of Ennis, have been dwellings on individual plots. The site sizes range and are mostly suburban in style. I note the proposed development reduces the site size of the existing dwelling, although I consider this in keeping with the pattern of development in the vicinity and would not have a negative impact of the visual amenity along this regional road.
- 6.11. In terms of impact on visual amenity, the existing dwelling is a single storey bungalow and the proposed development includes a dormer style dwelling, 1.3m higher than the existing dwelling. The external finishes are similar to the existing and although the overall design is not identical, I do not consider it deviates significantly to have negative visual impact on the adjoining dwelling.

Water and Waste Water.

- 6.12. The existing dwelling is currently served by a septic tank. The proposed development includes a connection to the public sewer system. I note further information requested by Irish Water stated that there was no foul sewer design submitted and a significant sewer extension was required to service the proposed dwelling house. The third reason for refusal related to the lack of clear proposal for the foul sewer connection. The grounds of appeal have submitted two new options for connection to the foul sewer. The first option runs across the public road 150m north across a third parties field to meet the public foul line. The second option travels 275m north east along the public road to connection into the public foul line. A response from Irish water confirmed there is sufficient capacity in the public foul system, although it would be the applicant's responsibility to procure all the appropriate authorisation, way-leave etc. for the laying of the infrastructure.
- 6.13. The options submitted from the applicant fail to include any third party agreements and no clear information has been supplied to confirm if either option is viable. I note a trial hole on the site during site inspection and the applicant's response to the

planning authority submission refers to the possibility to two septic tanks, should connection to the public system fail. This option requires the use of two separate entrances for each dwelling. The additional information is not accompanied by any site characterisation tests and I note the percolation area for both dwellings is located in area subject to flooding. Based on the lack of information submitted for either the public connection or the wastewater treatment systems, I do not consider the applicant has justified the servicing of the site. Therefore, based on the lack of clear and detailed information on the servicing of the site for foul water I consider the proposed development would be premature and would be prejudicial to public health.

Other Matters

- 6.14. A 110kv line runs parallel to the site along the south of the subject site. The majority of this line is outside the site apart from the marsh lands at the southern corner of the site, I do not consider the proposed development would have a negative impact on this electricity infrastructure.

Appropriate Assessment

- 6.15. The subject site is located approx. 2km east of the Ballyallia Lough SPA and 500m north of Ballyallia Lake SAC a "*Natural eutrophic lakes with Magnopotamion or Hydrocharition*". The proposed development initially included a connection to the public foul sewer, as detailed above in Section 6.12, the details of connection have not been finalised and a further response from the applicant included a proposal for two wastewater treatment systems. I do not consider the applicant has provided any clarity on servicing the site. The subject site adjoins an area which is subject to flooding and marsh land. I note NPWS information on Annex 1 lake habitats refers to the negative impact of eutrophication on this habitat for which the Ballyallia lake is designated.
- 6.16. Therefore, having regard to absence of clear details on the servicing of the proposed development, the area of flooding to the rear of the site, the conservation objectives of and distance from the European sites. I am not satisfied that the proposed development would not be likely to have a significant effect on the Ballyallia Lake SAC.

7.0 Recommendation

- 7.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

8.0 Reasons and Considerations

1. The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated by a public foul sewer system or disposed of on site, notwithstanding the proposed use of a wastewater treatment system. The proposed development would, therefore, be prejudicial to public health. On the basis of the information provided with the application and appeal the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Ballyallia Lake Candidate Special Area of Conservation, or any other European site, in view of the site's Conservation Objectives. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Planning Inspector

20th of February 2017