



An
Bord
Pleanála

Inspector's Report PL92.249029

Development	Permission for construction of a new wall of varying heights, on or very close to the north-west boundary where lands adjoin the public road. The proposed wall will run approximately perpendicular to the road.
Location	Ballynagleragh, Lattin, Co Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	17/600600
Applicant(s)	Tom Glasheen.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions.
Type of Appeal	Third Party
Appellant(s)	Hannah Crowe, Mary Crowe, Rita Curran Crowe & James Crowe.
Observer(s)	None.
Date of Site Inspection	25 th October 2017.
Inspector	Bríd Maxwell.

1.0 Site Location and Description

1.1. The appeal site lies within a rural area near the top of a ridge on the northern side of a rural road approximately 1.5km southeast of Lattin Village and approximately 8km west of Tipperary Town. The appeal site has a stated area of 1.5093 hectares is irregular in shape and essentially comprises a cottage landholding from which a dwelling site has been extracted (the intended dwelling of the applicant's son, Adrian Glasheen, which is currently vacant). The cottage lies within a continuous ribbon of road frontage development and incorporates a narrow strip of intervening land between the extracted dwelling site and an adjacent cottage to the west which is sited immediately adjoining the common landholding boundary. An established hedgerow forms the boundary with the extracted dwelling site whilst the cottage plot boundary is defined by a mix of walling and earthen bank and hedgerow and tree.

2.0 Proposed Development

2.1. The application as set out involves "permission for construction of a new wall of varying heights, on or very close to the North-west boundary where lands adjoin the public road. The proposed wall will run approximately perpendicular to the road." The proposed wall extends to approximately 18.7m in length and extends from 1.5m in height at roadside boundary to 1.8m to the rear. The proposed wall is set back 0.87m from the adjoining property to the north at roadside 0.95m from the gable of the dwelling and 1.1m from the rear boundary wall.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 6 conditions.

Condition 2 required that the wall be appropriately stepped to ensure that no part of the wall exceeds 1.83m over existing ground levels.

Condition 5 required that both faces of the wall be rendered and wall capped.

Condition 6. Prior to development commencing on the site the applicant shall submit revised plans and elevations, including for a gate between piers B & C to allow for the maintenance of this strip of ground for the written agreement of the planning authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report indicates no objection to the proposal and recommends permission subject to conditions.

3.2.2. Other Technical Reports

Area Engineer's report indicates no objection subject to conditions.

3.3. Third Party Observations

Submission from the appellant considers wall is unnecessary and expresses concern regarding height of the wall and impact on light and potential impact on gable end of dwelling. Note that previous decision of An Bord Pleanala required the planting of a privet hedge and a white thorn was planted 3 feet from the gable concern regarding roots of this hedge. Any wall should be a minimum 1m from the boundary to ensure for maintenance of gable end wall. Concern that the proposal will devalue property.

4.0 Planning History

PL23.224933 07/936 Following third party appeal of Council' s decision to grant permission the Board granted permission for construction of a dwellinghouse domestic garage new entrance to site and farmland right of way septic tank sewage treatment system percolation area and all associated site works. In deciding not to accept the Inspectors recommendation to refuse permission he Board considered that the applicant came within the housing need criteria. I note that the Inspector had recommended refusal on grounds of ribbon development and prejudice to public

health. The application documentation indicated a screen hedge along the north western boundary of the site.

5.0 **Policy Context**

5.1. **Development Plan**

The South Tipperary County Development Plan 2009 as varied refers.

5.2. **Natural Heritage Designations**

- Moanour Mountain SAC 3.3km
- Lower River Suir SAC 6.5km
- Galtee Mountains SAC 8km
- Lower River Shannon SAC 12.5km
- Philipstown Marsh SAC 13.5km

6.0 **The Appeal**

6.1. **Grounds of Appeal**

There are three third party appeals by Hannah Crowe owner of the adjacent cottage to the northwest, her sister Mary Crowe and sister and nephew Rita Curran Crowe and James Crowe. The ground of appeal raise issues in common which I have summarised as follows:

- The height of wall will block light and view.
- Concern that it will affect heavy dashing on the gable end of the cottage built in 1800s.
- Interference with surface water run off.
- Impact on property value.
- If a wall is to be constructed it should not exceed the existing wall.
- Proposal for an access gate at points B and C, which was not originally applied for, is highly objectionable.
- Property boundaries unsure.

6.2. Applicant Response

Response by Michael Quirke. Quirke Architectural design on behalf of the applicant is summarised as follows:

- The proposed wall is intended for privacy and a low wall is not suitable.
- Rear yard of adjoining property is approximately 200mm higher than appeal site therefore the practical height of the wall from the adjacent property will be approximately 1.63m.
- Upstairs window on gable will not be affected by the construction of the wall.
- No drainage dyke between the properties.
- No intention to provide access gate which was introduced by the Planning Authority by condition.
- Dispute the assertion that the Ms Crowe owns a strip of ground adjacent to her gable under the “hedge and ditch rule.” Land registry maps illustrate that the boundary is directly along the gable.
- Have always and will continue to give permission to Ms Crow to maintain her dwelling.
- Suggest that the best way forward is that without prejudice, subject to legal agreements the first party will transfer the piece of ground enclosed by the proposed wall to the Ms Crowe provided certain legal conditions are met. It is not intended to have an access point on the wall as conditions in the decision.
- Refute assertions that any party restricted access to Ms Crowe’s hedge.

6.3. Planning Authority Response

The Planning Authority did not respond to the appeal.

7.0 Assessment

- 7.1. I note that the strip of ground on which it is proposed to provide the wall formed part of the planning application site to which permission 224933 (the dwelling of Adrian Glasheen) refers. It would appear based on the documentation submitted by the First

Party in response to the appeal, that the omission of this strip of ground from the recently constructed dwelling site arises further to the registration of property boundaries with the land registration authority. The strip of ground upon which the first party now proposes to build a wall is therefore now located between two third party dwelling sites, the boundaries to both of which are currently defined by a mix of walling, gable end of dwelling and boundary ditch with hedging and a sycamore tree (in the case of the appellant's property) and a whitethorn hedge (in the case of Adrian Glasheen's house).

7.2. I note from review of PL23.224933 that the provision of a screen hedgerow set back approximately 2m from the boundary with the adjoining dwelling formed part of that application. I note that this hedgerow which has been well established on site (as evidenced in site photos provided in appendices), is not shown on the submitted layout plans. In my view the provision of a block wall as proposed would of necessity result in damage or removal this fine hedgerow and has not been justified. I further note that the maintenance of this wall would give rise to ongoing difficulties. I further consider that the proposed wall has potential to impact negatively on the established gable end of the adjacent dwelling. In my view the provision of this wall on this established rural site has not been justified and would be out of character.

7.3. Having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to 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.

8.0 Recommendation

8.1. Having considered the above application and the appeals I recommend that permission be refused for the following reason.

9.0 Reasons and Considerations

Having regard to the configuration of the site of the proposed development, to the planning history of the site including the grant of permission PL23.224933 and to the location of the proposed wall between two established hedgerow boundaries, it is considered that the proposed development of a wall at this location has not been justified, would interfere with the established screen hedgerow to the southeast and would give rise to ongoing difficulties in terms of access and maintenance.

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

Bríd Maxwell
Planning Inspector
25th October 2017