



An
Bord
Pleanála

Inspector's Report ABP 302581-18

Development	Two storey dwelling, garage and wastewater treatment system.
Location	Wallace's Cross, Ballyengland, Askeaton, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/634
Applicant	Thomas Kelly
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party against refusal
Appellant	Thomas Kelly
Observer	None
Date of Site Inspection	29/11/18
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.41 hectares, is on the north side of the N69 National Secondary Road in Ballyengland c. 3km to the east of Askeaton. It is immediately to the north-east of Wallace's Cross. The site is rectangular in shape and relatively level. A boarded up single storey dwelling fronts onto the road with a recently reconstructed stone wall and relocated access delineating the road frontage. The side and rear site boundaries are delineated by fencing and hedgerows.

There is a two storey dwelling and associated farm buildings to the east. The roadside boundary to this property is set back from the road with the area inbetween roughly surfaced.

The N69 in the vicinity of the site is relatively straight and save for the setback as described above does not have hard shoulders. It is governed by a central double white line in the vicinity of the site restricting overtaking opportunities. The 100kph speed limit applies. The road was noted to be well trafficked with a high proportion of HGVs.

2.0 Proposed Development

Permission is being sought to demolish the existing single storey dwelling and to construct a two storey dwelling setback c.60 metres from the roadside boundary. The dwelling has a stated floor area of 255 sq.m. A detached garage is also proposed.

Access is proposed from the relocated entrance.

As per the details in the site characterisation form a T-value of 25.03 and P-value of 21.81 were recorded. A depth of 1.1 metres was recorded from the ground surface to the bedrock. A wastewater treatment system with a soil polishing filter is proposed.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for two reasons which relate to traffic hazard, restricted sightlines and material contravention of the objectives of the County Development Plan to preserve the level of service and carrying capacity of the national road network.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report notes the reports summarised below and also refers to a report from Operations and Maintenance Services which states that the sightlines proposed are inadequate. 215 metre sightlines are required. 120 metre sightlines are indicated. It is noted that sightlines are restricted to the west due to roadside vegetation. Works are required to property not in the applicant's ownership to achieve the necessary sightlines and letters of consent have not been submitted from the relevant landowners. A refusal of permission is recommended.

3.2.2. Other Technical Reports

The Mid West National Road Design Office states that the proposal contains a new entrance which is undesirable from a safety perspective. It is noted that there is an existing house and entrance on the site. The proposal is seen as a replacement. The applicant should be conditioned to demolish the existing house and close the existing access as part of any approval.

Planning and Environmental Services require the installation of the onsite treatment system and polishing filter to be supervised and certified.

3.3. Prescribed Bodies

Transport Infrastructure Ireland in a letter dated 18/07/18 considers the proposal to be at variance with official policy in relation to the control of development on/affecting national roads as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the development by itself, or by the

precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network. The drawings indicate that the existing dwelling on the site is derelict and is to be demolished therefore the proposal does not represent a replacement dwelling and will result in the intensification of direct access onto the N69. The proposal would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

3.4. Third Party Observations

None

4.0 Planning History

I am not aware of any previous planning applications on the site.

5.0 Policy Context

5.1. Spatial Planning and National Roads – Guidelines for Planning Authorities, 2012

Section 2.5 states that the policy of the PA will be to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60km/h apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

5.2. Development Plan

Limerick City and County Development Plan 2010, as extended.

As can be extrapolated from Map 3.2 the site is within an area designated as being Structurally Weak.

Objective RS O3 states that to help stem the decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for

permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.

Objective RS O5 which refers to refurbishment / replacement of traditional rural dwellings states that the retention and sympathetic refurbishment, with adaptation if necessary, of traditional dwellings in the countryside in sympathy with the character of the existing building will be encouraged in preference to their replacement.

Planning permission will generally only be granted for replacement of a dwelling where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved, where the building is not of architectural merit. In this instance consideration will be given to the replacement of an existing dwelling with a new dwelling at the same location, subject to appropriate design, scale of building and normal planning considerations. Local rural housing need shall not apply in this instance.

Policy IN P9 - It is Council policy to safeguard the capacity of the national road network and road safety standards in accordance with the NRAs (National Road Authority) Policy Statement on Development Management and Access to National Roads (May 2006), and subsequent amendments to or replacements of this, including the forthcoming Government guidance on spatial planning and national roads when adopted and the 'Sustainable Rural Housing Development Guidelines' (DEHLG, 2005).

Objective IN O17 - It is the objective of the Council in the first instance to channel traffic from new development onto the existing local road network. In this regard, it shall not permit developments that require a new access onto a national road or that would generate additional traffic relying on an existing private or substandard access to a national road. The only exceptions to this policy shall be:

- a) Developments in existing built-up areas where access is deemed to be safe and where a 50km speed limit applies;
- b) Where members of the farming community wish to build their houses for their own occupation, on their own land, only where no reasonable alternative is available to them, and where the developer can clearly show that the exception is clearly warranted in his/her case;

c) Developments of national or regional strategic importance which by their nature are most appropriately located outside urban centres and where the developments proposed have specific locational requirements or are dependent on fixed physical characteristics.

5.3. **Natural Heritage Designations**

Askeaton Fen SAC is approx. 250 metres to the east of the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 1st party appeal against the planning authority's notification of decision to refuse permission, which is accompanied by supporting detail, can be summarised as follows:

- The existing dwelling was inadvertently described as derelict. This resulted in TII taking the view that the proposal was effectively a green field site and considered the existing entrance as a new entrance. The Mid West Roads Design Office notes that the proposal is a replacement for an existing dwelling and entrance and that a condition should be attached to demolish it and close the existing access.
- The dwelling is not derelict as per the definition in the Derelict Sites Act. It is not on Limerick City and County Council's register. The house was boarded up for security reasons leading to its current appearance. It is more properly described as unoccupied.
- The house and entrance could be redeveloped under the exempted development provisions.
- The Board is requested to view the proposal as a replacement dwelling and entrance and not as a new development.
- The existing dwelling and entrance are over 100 years old. Therefore there is an established entrance.

- Works to improve the access in 2016 were done in good faith. It was moved from the south-west to the south-east corner. The front boundary wall was moved back from the road edge to match the set back of the neighbouring property. Following pre-planning discussions he considered that the best option was to replace the house entirely which would allow for the new dwelling to be setback further from the road and the recently improved entrance regularised. This would allow for a planning gain by improving the housing stock and ceding road frontage to the public realm allowing for possible road widening and straightening in the future.
- The proposal does not involve development of a new or additional entrance onto the national road. It involves the moving of the existing entrance 25 metres east which will improve the safety of vehicles accessing and exiting the site. There will be no increased trip generation from the proposed development.
- The existing house and entrance predate the current Development Plan objectives and are similar to and superior to other house entrances onto the road at this location. Precedent has been set by other development in the area.
- It is unfair to retrospectively apply the sightline standards to the site that already has a dwelling on it. The works undertaken have greatly improved safety.
- The sightline to the east exceeds the 215 metres requirement. The sightline to the west does have some vegetation obstruction in the neighbouring field but is still very good.
- The Planning Policy Statement issued in 2015 states that local design policies should enable informed judgements on development proposals but should also avoid creating rigid or formulaic approaches to decision making. Such a statement is meant to help resolve scenarios as arising in this case.
- It is considered that the redevelopment of an existing house is in accordance with government policy and will help population in rural areas outside the urban pressure zones.

- Any concerns could be addressed by way of condition.

6.2. Planning Authority Response

None

6.3. Observations

None

6.4. Prescribed Bodies

Certain prescribed bodies were invited to make a submission on the appeal having regard to the proximity of the proposed development to Askeaton Fen SAC.

A submission from An Taisce states that while the proposal would problematically add to the one off wastewater treatment load in the Askeaton Area there are overriding grounds for refusal on public safety and inappropriate location on a national road.

7.0 Assessment

I submit that the substance of the 1st party appeal is predicated on the view that the existing dwelling on the site was inappropriately described as derelict. It is contended that the proposal should be assessed as a replacement dwelling and not from first principles.

The existing single storey dwelling on the site has not been occupied for a material period of time, is boarded up and is in a deteriorating condition. Whilst I note that the structure is not on the register of derelict sites for Limerick I would not concur with the view held by the appellant and submit that the dwelling is neglected and unsightly and could be seen to accord with the definition of a derelict site as set out in the relevant Derelict Sites Act.

I note that no reference is made in either the planning authority's reports or in the appellant's appeal submission to the applicability or otherwise of Objective RS O5 of the current County Development Plan which refers to refurbishment / replacement of

traditional rural dwellings. The objective seeks the retention and sympathetic refurbishment, with adaptation if necessary, of traditional dwellings in the countryside in sympathy with the character of the existing building in preference to their replacement. Planning permission will generally only be granted for replacement of a dwelling where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved, where the building is not of architectural merit. This has not been done in this instance.

As such I consider that the assessment of the proposal from first principles to be reasonable.

I consider that the substantive issue arising in the case is the proposed access arrangement onto the N69 national secondary road. As noted on day of inspection the road is well trafficked with a high proportion of HGVs. The 100kph speed limit applies with vehicles noted to be travelling at speed. Overtaking opportunities are restricted in the vicinity with no hard shoulders save for the rough surfaced area alongside the adjoining property to the east. The site is also in proximity to Wallace's Cross.

From the details on file the original access was to the west of the dwelling with a low, roadside boundary wall. The appellant relocated the access c. 25 to the east and setback the boundary in line with that of the property to the east. A new stone wall, higher than the original, has been constructed. It is reasonable to conclude that the relocation of the access was so as to improve sightlines, notably in a westerly direction. The planning authority by way of a warning letter informed the applicant that the works required permission.

The appellant considers that the relocation and improvement of an existing entrance to serve a new dwelling would not result in additional vehicular movements over those generated by the original dwelling. I would not subscribe to this view. As noted above the existing dwelling which has been unoccupied and unused for a considerable period, and with a floor area of 22 sq.m., is significantly smaller than that proposed which has a stated floor area of 255 sq.m. A garage capable of accommodating two vehicles is also proposed. I would also suggest that traffic levels have increased on the national secondary road in the intervening period.

The guidelines on spatial planning and national roads are quite clear in the prohibition of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply. This applies to all categories of development, including individual houses in rural areas.

As per section 5.6 and Table 5.5 of TII publication DN- GEO-03060 215 metre sightlines are required for an entrance onto a national road. Whilst the appellant considers the retrospective application of such requirements to an existing access to be unreasonable the fact remains that the current access is of recent construction, albeit along a road frontage which had an access. The 215 requirement is available in an easterly direction but not in a westerly direction as a consequence of the existing roadside hedgerow on lands outside the site boundary and not in the control of the appellant.

On balance I consider that the proposed development would be contrary to national policy and would contravene materially objective IN O17 of the current County Development Plan which precludes developments that require a new access onto a national road or that would generate additional traffic relying on an existing private or substandard access to a national road.

Other Issues

As can be extrapolated from Map 3.2 of the Limerick County Development Plan the site is within a structurally weak area where to help stem its decline it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.

As per the site characterisation form which accompanies the application the site can accommodate the proposed development with a wastewater treatment system and a polishing filter proposed.

Environmental Impact Assessment

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment

The site is c.230 metres to the west of Askeaton Fen Complex SAC (site code 002279). Taking into consideration the nature and scope of the proposed development, the wastewater treatment system proposed to serve the dwelling, the details provided on the site characterisation form and the existing residential and farm development in the intervening distance, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

I recommend that permission for the above described development be refused for the following reasons and considerations:

Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because the site is located alongside the heavily trafficked National Secondary Road N69 at a point where the speed limit of 100 km/h applies and the traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road. The proposed development would also contravene the objectives of the planning authority, which are considered reasonable, to preserve the level of service and carrying capacity of the National Secondary Road and to protect the public investment in the road.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the turning movements the development would generate where sightlines are restricted in a westerly direction.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2018