



An
Bord
Pleanála

Inspector's Report ABP-302826-18

Development	Dwelling house, entrance and all associated site works.
Location	Quinspool South , Parteen , Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18640
Applicant	Edward Irwin
Type of Application	Outline Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Edward Irwin
Date of Site Inspection	10 January 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located along a local road at Quinspool South, Parteen, Co. Clare just north of Limerick City and close to the county boundary. The site is west of the R464 which links Parteen to Limerick City. Quinspool is located west of the River Shannon and west of the Ardnacrusha tail race. An improved local road runs to the north of the city from Parteen south east through Clonard. The applicant's current residence is located at Derryisland (Derryfadda townland), on a cul-de-sac local road running north from this improved road. Thus the improved local road links the properties.
- 1.1.2. The subject site is along a rural road where one off houses occupy the road frontage. The site is part of agricultural land in the applicant's ownership identified with a blue outline in the application documents. The narrow frontage of the holding includes a short stretch of stone wall, south of a group water supply scheme (GWSS) pumping station compound, where the proposed access is to be located. Farm sheds to the south are in the applicants ownership and an old stone cottage type building close to the road edge further south is in separate ownership. The farm access, located between farm buildings is closed off by a sheet metal gate. The subject site is located to the rear of detached houses.
- 1.1.3. On the date of inspection it was not possible to gain access to the site because the gate was locked and no phone contact details were supplied for the applicant.

2.0 Proposed Development

- 2.1. The proposed development is a dwelling house, entrance and all associated site works. It is proposed to access the site immediately south of the pumping station compound with a driveway running along the side of the adjoining residential property to the north and then along the rear of that property and several other residential properties. A private well and septic tank system are proposed to service the dwelling.
- 2.2. **Grounds of Appeal**
 - 2.2.1. This is a first party appeal against the decision to refuse permission. The grounds includes:

- Responding to reasons
- 1 Housing need
 - Applicant has an equestrian enterprise on a five acre holding where he resides, and rents seven acres beside.
 - He trains sport horses and is an active member of Eventing Ireland, competing at events throughout Munster. He was leading amateur rider in Munster in 2017.
 - The route for a new motorway, the Northern Distributor Road, will pass close to his boundary and stables, at a higher elevation. The land to the north, which he rents, will become unavailable. This is shown on a map supplied. He depends on this land for grazing and winter turnout as his own holding is too small. It will be impossible to continue to operate at this location.
 - He is also concerned about road noise, dust and light pollution. He decided to move and purchased a 20 ac holding in December 2017, with existing stables, barn and all-weather training arenas. He is concerned that valuable horses cannot be left unattended overnight in a non-residential land holding. His horses are now at Derryisland. To relocate them to Quinnspond he needs to be resident there.
 - The definition of exceptional circumstances is not specific. Looking at previous interpretation he believes his circumstances are exceptional. An example referred to is P15/86, and a copy of the planner's report is attached, where an existing house owner was considered to be exceptional on the basis that she wished to acquire a plot of land in order to graze and keep horses as a hobby.
- 2 – backland development
 - The house site is 150m from the nearest houses, at an elevation 7m lower. There were no objections to the application. Photos supplied show the screening available at the two closest houses. Further information re screen planting, or moving the location, could have been sought.

- Backland development already exists in this area, indicated on a map provided; contradicting the planner's statement that it would be at odds with the surrounding pattern of development in the area.
- A bored well water supply already exists on the land. Applicant would have no issue with using a mains supply.
- The pumping station for the GWSS is located within his land and has no access or RoW to the public road except through his land.
- Wastewater treatment was raised as an issue – photos supplied and site characterisation form show that the elevation of houses to the east is 5m higher than where the treatment plant is to be located and the site slopes away west.
- P18/501 – application Edmund Irwin – applicant has no ownership interest in that land which is owned by an adult son who has been working and living abroad and planning to return.
- Public Good – GWSS access – planning issues have arisen in the past as a result of actions by GWSS members. Applicant agree a temporary arrangement with Clare Co Co to allow access through a pedestrian gate. It was agreed that a permanent solution would be arrived at as part of a planning application. This was disregarded in the planner's report. This prolongs an unsatisfactory situation.
- Traffic – the public road reduces from a two lane to a single lane along this land, creating a dangerous bottleneck. It is proposed as part of this planning application to widen the road by removing the existing boundary wall and trees. This was ignored in the planning report.
- Attached to the grounds are:

An orthophoto/aerial photograph map showing the applicants dwelling location and rented lands and the line of the proposed road; a copy of the planner's report on p15/86; a photo taken within the subject lands; an aerial photo indicating a dwelling to the north located to the rear of roadside housing; and a letter from Clare County Council to Mr Irwin referring to the GWSS pumping station.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to refuse permission for 3 reasons:

1 The subject site is located in the countryside, within the 'Areas of Special Control' and identified as being an area under strong urban pressure, where it is an objective of the Clare County Development Plan to permit a new single house for the permanent occupation of an applicant subject to demonstrating compliance with criteria of a 'local rural' person, with a 'Local Rural Housing Need'. The planning authority is not satisfied that the applicant complies with the criteria as set out under Objective 3.11 of the Development Plan, and has not demonstrated a 'Rural Housing Need' to reside at this location. Accordingly the proposed development would materially contravene Objective 3.11 'New Single Houses in the Countryside within Areas of Special Control' and would conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government April, 2005. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, located to the rear of existing houses would, by itself and the precedent it would set for further similar development, constitute uncoordinated disorderly and haphazard backland development which would be out of character with the surrounding pattern of development in the rural area and would fail to integrate with existing pattern of development. The proposed development would therefore seriously injure the residential amenities of the area and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the density of dwelling houses in the vicinity of the site, all of which are served by individual wastewater treatment systems, it is considered that the provision of a bored well at this location where there is an alternative supply available would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report, recommending refusal of permission for 3 reasons, includes:

- Development plan 2017-2023 objectives include:
- 3.11 new single houses
- Western corridor working landscape
- Applicant lives in Derryisland, Clonlara and runs an equestrian enterprise. The proposed northern distributor road will pass within 15m of the boundary of his land. He has purchased lands at the subject site to relocate his business there and build the subject dwelling. It is proposed to form a new site entrance by removing the existing stone boundary wall along the public road. He states that the proposal will facilitate the possibility of access through his lands to the pumping station to the north which is part of the local group water scheme supply.
- Three criteria arise in assessing applicants under the category of single house in the countryside:
 - Applicant must come within the definition of local rural person
 - Proposed site must be situated within their local rural area
 - Applicant must have a local rural housing need.

Applicant satisfies 1 and 2.

From the information supplied, the applicant has not sufficiently demonstrated a genuine local rural housing need.

Furthermore further information has been sought under PI 18/501 (Edward Irwin) for a site zoned agricultural in Parteen where permission if granted may be used by the applicant or another family member.

Traffic issues – the existing wall along the boundary of the pump station with the public road, lies to the north of the proposed entrance, and there is an existing outbuilding to the south, which together with existing hedgerows restrict sight distance in both directions. Also the drawings do not show how a

splayed entrance can be achieved at this location. Achievement of sight distance has not been demonstrated.

Access to the pump station from his lands which he has referred to has not been shown. In this regard it is noted that the pump is fully accessible from the public road by a pedestrian gate.

Public Health – there is no letter of consent from the Group Supply Scheme.

Visual Amenities & Residential Amenities – no issue.

3.2.2. Other Technical Reports

Environmental Scientist – the applicant proposes a treatment system and polishing filter / percolation at the rear of existing houses. The concern here is that if anything malfunctions in the wastewater treatment system, then this will negatively impact on the two or three houses immediately in front of the site.

The applicant proposes a bore well for potable water supply. As there is a group scheme available in the area the applicant should connect to this. From a public health point of view it is preferable that dwellings are connected to a mains supply where this is available.

It is noted from the application layout that there is a pump station located adjacent to the site entrance. Allowance needs to be made for any future expansion of this pumping station. Confirmation to be requested from the owner of this pumping station that the proposed entrance will not impact on future use or expansion of this pump station.

4.0 Planning History

Nearby

10/327 premission granted for development consisting of the erection of a 2 storey dwelling, garage, entrance, boundary wall/fence proprietary effluent system and associated site works, including retention of fill material on site.

09/1090 application for development consisting of the erection of a 2 storey dwelling, garage, entrance, boundary wall/fence proprietary effluent system and associated site works, including retention of fill material on site, withdrawn.

Other planning history in applicants name:

99/2291 permission to construct a dwelling, entrance, septic tank and percolation area at Derrafadda, Clonlara, Co Clare.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Clare County Development Plan 2017-2023 is the operative plan, relevant provisions include:

This is an area of special control based on being an areas under strong urban pressure.

3.11 new single houses. In areas of special control applicant is to be assessed based on either category A, B or C. Category A - local rural person: a local rural person, in a local rural area, with a local rural housing need. Category B - persons working full time or part-time in rural areas. Category C exceptional health and/or family circumstances (exceptional health circumstances or applicant requires to reside near elderly parents or where elderly local farmers have no children)

- 5.2. **Sustainable Rural Housing Guidelines for Planning Authorities** Department of Environment, Heritage and Local Government April, 2005

This sets out in how the Government's policies on rural housing are to be implemented by planning authorities in making their development plans and in the operation of the development control system.

The key development plan objectives in areas under strong urban influence should be, to on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions, while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

5.3. Natural Heritage Designations

- 5.3.1. The nearest Natura is Special Area of Conservation: Lower River Shannon SAC, site code 002165, located c 35m from the subject site.

5.4. Environmental Impact Assessment

- 5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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.

6.0 The Appeal

6.1. Planning Authority Response

- 6.1.1. The planning authority has responded to the grounds of appeal, which includes:
- Applicant's existing house is not proposed to be demolished to facilitate the new road, and the associated site appears to remain intact having regard to the mapping submitted. The dwelling is not rendered uninhabitable and will continue to function as a dwelling. The applicant has been granted a house in a rural area under strong urban pressure and is not entitled to a second house. The planning authority is not satisfied that the applicant complies with the criteria under objective 3.11 of the CDP.
 - Re. the applicant's equestrian business and the need for security, this does not justify backland development. Applicant appears to be leveraging the preference to be near his horses as justification; security is not the purpose of the rural settlement policy.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, rural housing policy, site servicing, backland development and residential amenity, traffic

safety, and other issues and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. Rural Housing Policy

- 7.3.1. Conflict with the rural housing policy as set out in the County Development Plan is the first stated reason for refusal. The rural housing policy is set out in Chapter 3 of the development plan 'Urban and Rural Settlement Strategy'. Objective 3.11 is the relevant objective in relation to the control of new single houses in the countryside within the 'areas of special control'. The area within which the subject site is located is an area of special control by virtue of being an area under strong urban influence, due to its close proximity to Limerick City.
- 7.3.2. As directed by the Sustainable Rural Housing Guidelines for Planning Authorities the development plan objectives 'on the one hand (to) facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand direct(ing) urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan'.
- 7.3.3. The development plan provides for the assessment of applications under three categories: categories A, B and C. Category A, local rural person, is the category under which this applicant has been assessed, and requires housing need to be demonstrated. The applicant does not have a housing need. Category C, exceptional health and/or family circumstances, is the category referred to by the applicant in the grounds of appeal. The applicant claims to have exceptional circumstances based on his equestrian enterprise which is carried on on a five acre holding where he resides and where he rents seven acres. The route for a new 'motorway' will pass close to his boundary and stables, at a higher elevation, impacting by road noise,

dust and light pollution and making the land to the north, which he rents, unavailable. This is his stated reason for acquiring the subject property and he needs a house on the land to provide necessary security for his horses.

- 7.3.4. The location of his existing dwelling is shown in an aerial photograph/map submitted with the grounds of appeal, and can be seen to be within relatively easy reach of his new landholding/ subject site, both being within a short distance of Limerick City; any requirement there may be for proximity to Limerick City is not stated.
- 7.3.5. In support of his claim to enjoy exceptional circumstances he cites a recent planning permission, regarding which he states that the applicant's circumstances was considered exceptional, although already owning a house, on the basis of having a need for a rural dwelling to keep her horses as a hobby. It is understandable that the first party would refer to such an example, however the Board has no information other than that supplied by the first party, and has no function in this matter, since a grant of permission appears to have already issued in that case. The subject appeal falls to be decided on the basis of policy.
- 7.3.6. I note that the lands outside the site of the applicant's existing dwelling, which will be impacted by the proposed road line, are not in his ownership; reliance on rented lands for an enterprise is precarious; and in my opinion the loss of these lands does not lead to a conclusion of exceptional circumstances.
- 7.3.7. Regarding the security of his livestock, this was no doubt an issue which the first party took into consideration when purchasing the lands.
- 7.3.8. In my opinion the proposed development would materially contravene Objective 3.11 of the Clare County Development Plan and would conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities and this is a reason to refuse permission.

7.4. Site Servicing

- 7.4.1. The density of houses served by on-site effluent treatment and the unsuitability of using a bored well water supply, in such an area, where a mains supply is available, is the basis for the third refusal reason.

7.4.2. The third party in response points to the fall of the land, downwards towards his site, and the site characterisation report, which indicate that the effluent from his on-site treatment system is unlikely to impact the dwelling sites to the east. He also states his agreement to use of the mains water supply.

7.4.3. In my opinion site servicing should not be a reason to refuse permission.

7.5. Backland Development and Residential Amenity

7.5.1. Disorderly and haphazard backland development, out of character with the surrounding pattern of development in the rural area and the serious injure it would occasion to the residential amenities of the area, is the basis for the second refusal reason.

7.5.2. The first party in response states that the proposed house site would be 150m from the nearest houses, at a much lower elevation, and he considers that any concerns could have been dealt with by seeking further information.

7.5.3. Although I would share some of the planning authority's concerns regarding the potential for disorderly backland development with attendant issues, having regard to the size of the site and the landholding I agree with the third party that these issues could have been dealt with by further information or by condition and I consider that backland development and residential amenity should not be a reason to refuse permission.

7.6. Traffic Safety

7.6.1. The first party raises the issue of traffic safety stating that there is a dangerous bottleneck at the site entrance where the road reduces from a two lane to a single lane. He further states that this situation is compounded by the presence of a large quarrying and concrete mixing plant eight kilometres to the north which serves the Limerick market, and that a major extension of this facility is currently being planned, which will further increase heavy goods / articulated lorry traffic. He presents his proposal to remove the roadside boundary, as a public benefit, stating that it is proposed as part of this planning application to widen this narrow section of road by removing the existing boundary wall and trees; this was ignored in the planning report.

- 7.6.2. From a site inspection it appeared that the sightline to the south was deficient. It is noted that the application shows a sightline of 2.4m x 90m in this direction. The conventional 'x' distance used is 3m, measured back from the near side edge of the road; a figure of 2.4m is conventionally used for urban roads. In this context rather than the development offering public benefit to traffic, traffic safety is potentially a reason to refuse permission.

7.7. Other

- 7.7.1. Access to the GWSS compound - access to the GWSS compound is an issue raised by the first party, who states that there is no consent for access across his land and that planning permission would have facilitated the resolution of the issue. The issue as presented is far from clear and should not have a bearing on the Board's decision.
- 7.7.2. Flood Risk – the site appears to be above the recorded flood extent (per CDP) but due to the proximity of recorded flooding this is an issue which should be addressed by an applicant in this location.

7.8. Recommendation

- 7.8.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons and considerations.

8.0 Reasons and Considerations

The subject site is located in the countryside, within the 'Areas of Special Control' and identified as being an area under strong urban pressure, where it is an objective of the Clare County Development Plan to permit a new single house for the permanent occupation of an applicant subject to demonstrating compliance with stated criteria. The applicant does not satisfy any of the 3 categories set out under Objective 3.11 of the Development Plan, in particular by not having a housing need or experiencing exceptional circumstances, and accordingly the proposed development would materially contravene Objective 3.11 'New Single Houses in the Countryside within Areas of Sepcial Control' and would conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities published by the

Department of Environment, Heritage and Local Government April, 2005. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

Planning Inspector

30 January 2019

Appendix 1 Photographs

Appendix 2 Extracts from the Clare County Development Plan 2017-2022

Appendix 3 Extracts from the Sustainable Rural Housing Guidelines for Planning Authorities