



An
Bord
Pleanála

Inspector's Report ABP-303652-19

Development	House and Commercial Shed
Location	Ballyvaskin, Miltown Malbay, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18115
Applicant(s)	Brian Fitzgerald.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Brian Fitzgerald.
Observer(s)	None.
Date of Site Inspection	18 th April 2019.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of 0.47ha and is located on a minor local road to the south east of the N67 Miltown Malbay to Lahinch overlooking Liscannor Bay, in County Clare. The site is within the townland of Ballyvaskin approximately 3.6 kilometres to the northeast of Miltown Malbay. The site is elevated over road level and enjoys fine views over Liscannor Bay which is 1.4km distant. The appeal site is part of a larger field pattern with sod and stone ditch along the roadside boundary. The site is pasture with soft rush vegetation indicative of poor drainage particularly towards to front north-western part of the site. There is a historic shale quarry pit located on the road front to the west of the site. Adjoining to the northeast is a dwelling site occupied by a bungalow type dwelling with accommodation in the roof space. The appeal site slopes upwards from the public road rising to a plateau and then falls to the rear. Submitted site levels show a rise of approximately 7m from a spot level at road frontage to the highest point on the site.

2.0 Proposed Development

2.1. The application as set out involves permission for construction of a dwelling house, garage, commercial shed and ancillary works. The initial design involved a two-storey double gable fronted dwelling (200m²). Its siting approximately 93m from the front roadside boundary with a single storey domestic garage to the rear (51sq.m) and a shed (180m²) adjacent to the rear / south-eastern site boundary. Following a request for additional information the design of house was thoroughly revised to comprise a single storey cottage type element running parallel to the public road with a linked two storey barrel roofed like structure running perpendicular to the public road. External finish involves with a mix of painted napped sand and cement render with slate roof to single storey element and corrugated composite units to barrel roof. The dwelling is to be served by a septic tank and percolation area located to the rear of the dwelling. Water supply is by way of connection to public scheme. The proposed shed is intended to store electrical materials used in association with the applicant's business as an electrical contractor. It is estimated that this use would give rise to approximately one delivery from single axle truck per week at most. The

front roadside boundary is to be excavated in its entirety (29m) and set back 3.5m from the road edge.

3.0 Planning Authority Decision

3.1. Decision

By order dated 11th January 2019 Clare County Council issued notice of decision to refuse permission for the following reason:

“ It is considered that the proposed dwelling by reason of its siting on this exposed and elevated site, where natural screening is limited, would represent a prominent feature on the landscape which would be visible over a wide area. The proposed development would therefore seriously injure the visual amenities of the area and would set an undesirable precedent for other such proposals at this location and be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Initial Area Planners report sought further information to include a demonstration of housing need, full landholding and planning history details, future development intentions of the landowner. Applicant was requested to revise siting and design to address visual impact and clarify proposed commercial shed use.

3.2.1.2 Subsequent report of the Area Planner considered that the revised proposals acceptable and permission was recommended subject to conditions.

3.2.1.3 Report of Acting Senior Executive Planner recommended refusal on grounds of the exposed and elevated nature of the site and negative visual impact arising. Noted the limited capacity of the landscape to accommodate further housing development along the ridge line and limited capacity of road network also.

3.3. Prescribed Bodies

Irish Water submission indicates no objection. Connection agreement in respect of water connection.

3.4. **Third Party Observations**

Representation by Councillor Bill Slattery.

4.0 **Planning History**

ABP-303608-19 Invalid

5.0 **Policy and Context**

5.1. **Development Plan**

5.1.1 The Clare County Development Plan 2017-2023 (as varied) refers.

5.1.2 CDP 3.11 New Single Houses in the Countryside within areas of special control. The site is in an area under strong urban pressure. 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)

5.1.3 Chapter 13 Landscape. CDP 13.7 Scenic Routes. CDP 13.2 Development Plan Objectives : Settled Landscapes. CDP13.7 Development Plan Objective Scenic Routes. It is an objective of Clare County Council: *“A To protect sensitive areas from inappropriate development while providing for development and change that will be benefit the rural community. B To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas that are designed and located to minimise their impact. C. To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.”*

5.1.4 Chapter 6 Economic Development and Enterprise. 6.3.17 Rural Enterprise. CDP6.20 “It is an objective to support rural enterprise and the rural economy by permitting the development of rural resource-based industries in rural areas subject to compliance with appropriate planning and services requirements. Support and facilitate proposals for new small-scale rural enterprise or extensions to existing small-scale

rural based indigenous industries subject to compliance with appropriate planning and services requirements.”

5.1.5 **Clare Rural House Design Guide 2005**

5.2 **Sustainable Rural Housing Guidelines for Planning Authorities Department of the Environment Heritage and Local Government April 2005.** – Recognises the sensitivity and limited environmental capacity of scenic areas such as coasts, lakeside areas and uplands to carry substantial levels of development.

5.2. **Natural Heritage Designations**

5.2.1 The site is not within a designated area. The nearest Natura 2000 sites in the vicinity include Mid Clare Coast SPA (Site Code 004182) 5.5km to the southwest and Carrowmore Point to Spanish Point and Islands SAC (Site Code 001021) 5.5km to the southwest.

5.3. **EIA Screening**

5.3.1 Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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. **Grounds of Appeal**

The appeal is submitted by Michael J Duffy, Chartered Civil Engineer on behalf of for first party. Ground of appeal are summarised as follows:

- No view of the site or proposed development from N67 Scenic Route
- Siting finished floor level and design were revised to address concerns regarding visual impact. Design is in keeping with vernacular in West Clare.

- Proposed design benefits sense of place with respect to the adjacent bungalow.
- General area is elevated. It is unreasonable to suggest that the proposal would be prominent feature and visible over a wide area.
- Proposed dwelling will only come into view at a distance of 220m when approaching from the north east and 290m from south west. Other views to east and west are long distance.
- No local objection
- Refusal does not reference the commercial shed. Open declaration of proposed commercial shed demonstrates First Party's integrity.
- Refusal is subjective and contrary to the recommendation of the designated planner.
- Suggestion that the development will impair visual amenity is incorrect and unfair.
- Issue raised at final stage contrary to the spirit of the process and sentiments expressed in Ministerial Development Management Guidelines.

6.2. Planning Authority Response

6.2.1 The response of the planning authority notes that further information sought with regard to a number of points including visual impact on landscape. The site is elevated with no screening. It is considered that the barn-style element by reason of its setting on the western side of the dwelling adds to the bulk of the proposal. With regard to the shed proposed to the rear of the site at a lower level and as such would not impact substantially on the visual amenities of the area. Similar sized sheds are also located on other properties in the vicinity of the site.

7.0 Assessment

7.1 From my review of the file, all relevant documents, an inspection of the site and its environs, I consider that the main planning issues for consideration in the Board's de

novo assessment of the appeal may be considered under the following broad heading:

Settlement Strategy – Planning Policy

Visual Impact and Impact on the amenities of the area

Servicing Wastewater Treatment & Traffic

Appropriate Assessment

7.2 Settlement Strategy – Planning Policy

7.2.1 The rural housing policy is set out within Chapter 3 Urban and Rural Settlement Strategy of the Clare County Development Plan 2017-2023. Objective CDP3.11 is the relevant objective in relation to “New Single Houses in the Countryside within areas of special control. Within the Development Plan it is the Council’s policy to facilitate the rural generated housing requirements of the local rural community whilst also directing urban generated rural housing to areas zoned for new housing development in the city, towns and villages. CDP3.11 provides that permission for a new single house for the permanent occupation of an applicant who falls within one of the Categories A, B or C and meets the necessary criteria. Category A relates refers to a “local rural person” where the site is within their ‘local rural area’ and the applicant must have a ‘local rural housing need’. Category B relates to persons working full time or part time in rural areas and category C exceptional health and/or family circumstances. The applicant currently resides in the family home on the outskirts of the settlement of Miltown Malbay (outside the settlement boundary). Thus, it would appear based on documentation submitted that the applicant would qualify under Category A. I note that the Planning Authority was satisfied that the applicant meets the criteria for qualification as a local rural person.

7.2.2 As regards the proposal to provide a commercial shed, I note CDP 6.20 which provides for rural enterprise subject to proper planning and appropriate planning services requirements. The application details indicate that the commercial shed is intended for storage purposes in connection with the applicant’s business which is electrical

contracting. I note at 6.3.17 reference is made to growing trend for development of small workshops some of which are located within the confines of existing houses in rural areas. It is stated that Clare County Council will seek to accommodate these wherever possible subject to normal planning considerations. I consider therefore that there is no policy impediment to the proposed commercial shed for the purposes as stated.

7.3 Visual Impact and Impact on the Amenities of the Area.

7.3.1 The refusal by Clare County Council refers to the elevated nature of the site and lack of screening and concluded that the proposed dwelling by reason of its siting and design would represent an unduly prominent feature in the landscape which would seriously injure the visual amenities of the area and set an undesirable precedent for similar such proposals. As regards the design I consider that the combination of design and siting give rise to a poor relationship to the established dwelling on the adjoining site and result in a significant negative visual impact on the landscape. The design is relatively unsympathetic to the elevated context of the site and the design and layout does not conform to the principles and parameters as set out in the Clare Rural house design guide 2005 in relation to relation to siting, and design.

7.3.2 Given the topography the site affords extensive views over Liscannor Bay to the west and the proposed dwelling would be unduly visible and prominent over a wide area. I note that the N67 to the west is a designated scenic route and whilst this designation is presumably based on views to the west over Liscannor Bay and beyond, regard should be had to the wider setting. The site forms part of the wider coastal landscape which would be considered highly visually attractive and a potentially vulnerable area with a limited capacity to absorb development. The topography and landscape character provide that the proposed development would be visible intermittently from the designated scenic route. The proposed elevated siting of the dwelling on a ridgeline would clearly give rise to inappropriate visual impact. The cumulative impact and scale of proposed dwelling commercial shed would further accentuate the visual impact arising and, in my view, would be entirely inappropriate on this site. I therefore consider that the decision of the local authority that the proposal would be visually obtrusive and detrimental to the rural and scenic amenities of the area is valid. As regards the assertion by the appellant that the

issue of visual impact was raised at the eleventh hour it is evident that the question of visual impact formed part of the assessment and request for further information.

7.4 Servicing Wastewater Treatment and Traffic

7.4.1 I note that the submitted site suitability assessment submitted indicates that the trial hole excavated to 2.1m below ground level revealed topsoil leading to .2m to a homogenous subsoil described as a dense silt/clay reddish brown (4 Threads 90mm Ribbons). No evidence of water ingress or mottling was noted. Neither was bedrock encountered. A T value of 35 was recorded. Based on details provided it appears that it is technically feasible to provide for wastewater treatment on the site in accordance with EPA Wastewater Manual standards.

7.4.2 As regards traffic safety the site abuts a straight section of a minor local road and the achievement of sufficient sightlines is readily available although I note that the proposed provision of same involving the set back of the existing front boundary would be detrimental to rural amenity.

7.5 Appropriate Assessment

7.5.1 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.

8.0 Recommendation

Having considered the file and all submissions and having visited the site, I recommend that permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

It is an objective of Clare County Council CDP 13.7 to protect sensitive areas from inappropriate development and to ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact. The proposed development by reason of its siting, scale, layout and design would result in a visually prominent and obtrusive development on an elevated ridge line, which would adversely affect the character of the area and seriously injure the rural and scenic amenities of the area. The proposed development would be at variance with the design objectives and guidelines as set out in the Clare County Development Plan 2017-2023 and the Clare Rural House Design Guide 2005 and would therefore be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

16 May 2019