



An
Bord
Pleanála

Inspector's Report ABP-303774-19

Development	Construction of house, effluent disposal system, and associated site works.
Location	Clonshire Beg Townland, Adare, Co. Limerick.
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	18/1153
Applicant(s)	Jake Bell
Type of Application	Permission
Planning Authority Decision	Grant, subject to 16 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Martin White
Observer(s)	None
Date of Site Inspection	2 nd May 2019
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 3.3 km (as the crow flies) to the WSW of Adare. This site lies in the countryside and in the townland of Clonshire Beg. It is accessed via the local road network (L8024 & 25) off the northern side of the N21. The SE corner of the site abuts a junction on this network, which is effectively five armed as, besides two local roads, the entrance to Clonshire Equestrian Centre meets at this point. The curtilage to the applicant's family home abuts the W of the site and other dwelling houses lie on the opposite side of the local road to the S and the SE.
- 1.2. The site itself is of regular shape and it extends over an area of 0.265 hectares. It is level and this site is presently in use as a field. The existing gated access to the site is in its E boundary off the aforementioned junction.

2.0 Proposed Development

- 2.1. The proposal would entail the construction of a dormer bungalow on the site, which would incorporate two storey gabled features on its front elevation and subsidiary elements to either end of its main body. This dwelling house would provide four bedroomed accommodation over a floorspace of 264 sqm.
- 2.2. The proposed dwelling house would be accessed off a new entrance to the site, which would be sited in its SW corner next to the existing entrance to the neighbouring dwelling house to the W. In conjunction with the provision of this entrance, the existing wall to the southern boundary would be set back within the site to improve sightlines between it and the adjacent junction to the E. This dwelling house would be surrounded by a hardstanding, beyond which there would be garden areas, and it would be served by a waste water treatment system, which would be sited towards the SW corner of the site.

3.0 Planning Authority Decision

3.1. Decision

Planning permission granted, subject to 16 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Previous reasons for refusal deemed to have been overcome, e.g. proposed site entrance would now be on the southern rather than the eastern boundary.

3.2.2. Other Technical Reports

- Planning and Environmental Services: Advises that as secondary and tertiary treatments are proposed, no risk to groundwater would arise.
- Plan Roads: Advises that the improvement in sightlines would be welcome, no surface water should pass between the site and the public road and vice versa, and overhead lines should be setback in conjunction with the revised southern site boundary treatment.

4.0 Planning History

- **10/22 & PL13.237186**: Terry Hickey: Dwelling house: Refused at appeal on the grounds of sub-standard access road, proximity of 5 arm cross roads and other access points, and an inadequate southerly sightline from the proposed site entrance, all of which would endanger public safety, and, due to the number of dwellings served by bored wells and individual waste water treatment systems in the vicinity of the site, and the vulnerable nature of groundwater in the area, the unacceptable risk of water pollution.
- **17/531 & PL91.249284**: Jake Bell: Dwelling house: Refused at appeal on the same grounds as those cited above.

5.0 Policy and Context

5.1. Development Plan

Under the Limerick County Development Plan 2010 – 2016, which remains the operational plan for the County, Map 3.2 shows the site as lying within an Area of Strong Agricultural Base.

5.2. Natural Heritage Designations

- Lower River Shannon SAC (site code 002165)
- Curraghchase Woods SAC & pNHA (both site code 000174)
- Askeaton Fen Complex SAC (site code 002279)

5.3. EIA Screening

Under Items 10(b)(i) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, where more than 500 dwelling units would be constructed, the need for a mandatory EIA arises. The proposal is for the development of a single dwelling house. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall so far below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- Attention is drawn to previous comparable proposals that were refused at appeal. The issues cited in the grounds for refusal persist. Regrettably, these have not been addressed, although insofar as they pertain to the context they may not be capable of resolution by the applicant.
- The width and alignment of the local road have previously been critiqued and these characteristics remain unaltered.
- The number of existing dwellings in the vicinity of the site and their bored well and private waste water treatment systems and the vulnerable nature of ground water in the area remain unaltered.
- While the last Board refusal reiterated the same grounds of refusal as its predecessor, the inspector also drew attention to the need to resist the removal of roadside boundaries and to steer, in all but the most exceptional

circumstances, rural housing proposals towards sites where acceptable waste water treatment can be facilitated.

- Given the foregoing planning history of the site it is regrettable that the Planning Authority has not adhered to the Board's previous decisions and that it falls to a third party to appeal the proposal once again.

6.2. Applicant Response

- Contrary to the appellant's position, the applicant insists that the previously cited grounds for refusal have been addressed. Thus,
 - The proposed improved sightlines would not simply serve the applicant but other road users, too. They are welcomed by the Local Area Engineer.
 - In setting back the southern boundary an existing wall would be replaced by a ditch and hedgerow.
 - The Site Characterisation Assessment Report demonstrates that the proposal would be capable of being satisfactorily serviced for the purposes of waste water treatment and discharge.
 - Professor Gill of TCD's Department of Civil, Structural and Environmental Engineering confirms that the site is suitable and that ground water flows in a NE direction and thus away from neighbouring dwellings. He states the following:

...The proposal is to discharge tertiary treated effluent into the soil at a depth of 0.7m where the percolation tests have shown a consistent T-value of c. 50. The trial hole has also shown that a further 2.7m of unsaturated sub-soil (at least) below this proposed infiltration level, which is way in excess of the minimum requirement for even the discharge of septic tank effluent, let alone tertiary effluent. Hence, by the time the effluent reaches the water table it can be considered to be fully treated and pose no threat to the underlying ground water...
 - Two Certificates of water quality analysis in neighbouring bored wells testify to its satisfactory status.

- Attention is drawn to the appellant's own developments.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of national planning guidelines and advice, the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Rural Settlement Policy,
- (ii) Amenity,
- (iii) Traffic, access, and parking,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Rural Settlement Policy

7.2. Under Map 2.1 of the CDP, the site is shown as lying within an Area of Strong Agricultural Base. Objective RS 02 sets out the criteria for establishing whether or not an applicant is a candidate for a one-off dwelling house in the said Area.

7.3. The applicant has completed a supplementary form in which he states that the subject site forms part of land owned by his parents with whom he resides in the residential property that adjoins this site to the west. (His family have resided in the area for at least 100 years). He further states that he has resided in this property all

his life and that, as he plans to get married, he is seeking to build the proposed dwelling house on the subject site as his own place of residence.

7.4. By way of supporting information, the applicant has submitted the following information:

- A copy of his birth certificate,
- A letter from the principal of Shountrade National School, confirming his attendance there between 2002 – 2010, and
- A letter of consent from the applicant's parents and accompanying extract from the Land Registry Authority, which confirms his father's ownership of the site.

7.5. Under the aforementioned criteria, the applicant would thus appear to be a candidate under the following two items:

(a) The application is being made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands, and

(d) The application is being made by a rural person(s) who for family and/or work reasons wish to live in the local rural area in which they have spent a substantial period of their lives (minimum 10 years) and are seeking to build their first home in the local rural area.

7.6. The applicant draws attention to the acceptance of his candidature by the Board under appeal PL91.249284, which was decided upon on 13th March 2018.

7.7. I conclude that, under the CDP's Rural Settlement Policy, the applicant is a candidate for a one-off dwelling house on the subject site.

(ii) Amenity

7.8. The proposed dwelling house would be sited centrally within the western and central portions of the site. This dwelling house would be a dormer bungalow with two gabled features to the front elevation. Its form would comprise a main body with ground and first floors and single storey wing elements at either end to the east and to the west.

7.9. Table 10.2 of the CDP sets out Design Guidelines for Residential Areas, which refer to the Planning Authority's "Rural Design Advice for Individual Houses in the

Countryside.” This Advice seeks to ensure that the design of one-off dwelling houses respects the County’s vernacular traditions. A key message is thus that simple forms should be used in the design of one-off dwelling houses.

- 7.10. The currently proposed dwelling house was previously proposed under application 17/531 and its design was not critiqued under the ensuing appeal decision PL91.249284.
- 7.11. The submitted plans do not appear to cohere insofar as the front elevation shows a 11.7m long ridgeline to the main body of the dwelling house whereas the rear elevation shows a 13.3m long one. Likewise, the former elevation shows a 5.3m long ridgeline to the eastern wing element whereas the latter elevation shows a 3.5m long one.
- 7.12. Notwithstanding the foregoing, I am concerned that the proposed dwelling house would be unduly complicated and that the proportions of its front elevation, especially, would be lacking aesthetically. Thus, complexity is evident in the specification of two front gabled elements and in the profiles of the side elevations with their layers of projecting/recessed elements. Disproportion is evident in the six light ground floor window in the front elevation and the specification of two windows to the shorter western wing elevation. On the rear elevation the vertical relationship between ground floor windows and dormer windows would be poor.
- 7.13. I have explored the possibility of amending the design of the proposed dwelling house by means of condition. However, this would, in practise, be difficult to achieve on the basis of the submitted plans and it would risk the negation of non-aesthetic objectives that the applicant may be reaching for. A fresh approach is therefore needed, which is informed by the above cited Advice. In view of paragraph 7.10, the Board may wish to make this the subject of a request for further information.
- 7.14. I conclude that the design of the proposed dwelling house would fail to reflect the Planning Authority’s “Rural Design Advice for Individual Houses in the Countryside” and so it would be contrary to Table 10.2 of the CDP.

(iii) Traffic, access, and parking

- 7.15. The applicant states that he resides with his parents in the dwelling house to the west of the site. Accordingly, any increase in traffic generated by the proposed dwelling house, which he would reside in, would be minimal.

- 7.16. Under the previous applications for the site, access would have been obtained from the local road that adjoins the eastern boundary and which coincides with a five-arm junction. Under the current application, access would be obtained from the local road that adjoins the southern boundary, at the western end of this boundary and so at the opposite end of it from the aforementioned junction. This access would be laid out beside the existing access to the dwelling house to the west and opposite the access to a dwelling house to the south.
- 7.17. In conjunction with the proposed access the line of the southern boundary to its east would be set back into the site to a depth of between 2 and 10m and this new line would be denoted by a 1m high wall. The verge thus created would facilitate improved forward visibility and sightlines at the five-arm junction. It would also ensure that the eastern sightline from the proposed access is maximised, i.e. y distance of 54m. The local road in question is of straight alignment, thus facilitating a y distance of in excess of 90m in a westerly direction.
- 7.18. On site, an extensive area of hardstanding would be laid out around the proposed dwelling house. In accordance with the Planning Authority's "Rural Design Advice for Individual Houses in the Countryside", this area should be minimised, on aesthetic grounds, and it should be surfaced with a permeable material in order to ensure that surface water run-off would not affect the local road but be contained within the site.
- 7.19. I conclude that the proposal would generate a minimal increase in traffic movements. I conclude, too, that the proposed access would be satisfactory and the attendant set back to the southern boundary of the site would improve visibility and hence road safety at the adjacent junction to the east. The hardstanding on the site should be rationalised and finished with a permeable surfacing material.

(iv) Water

- 7.20. The proposed dwelling house would be served by an existing well, which is sited in the NE corner of the site and by a waste water treatment system, which would be sited in the SE corner. The existing dwelling house to the west of the site is served by a well, which is sited centrally adjacent to the property's southern roadside boundary, and by a septic tank and percolation area, which are sited towards the NW corner. I estimate that there are 12 dwelling houses within 250m of the site and each is served by a well and either a septic tank or a waste water treatment system.

The nearest 3 such wells to the south of the site are identified on the submitted rural place map.

- 7.21. Application 17/531 for a dwelling house on the subject site was refused at appeal PL91.249284, partly on the grounds that the applicant had not demonstrated that “the site can be drained satisfactorily by means of the waste water treatment system proposed or that a safe and efficient water supply can be provided on the site.” The WWTS proposed was the EPS Bison mechanical treatment plant and it was to be accompanied by a pump so that treated effluent would flow into a sand polishing filter, which would have been constructed at a depth of 1.5m and thus below a relatively impermeable silt/clay layer within the ground.
- 7.22. The Site Characterisation Form, which accompanied the previous application, was first prepared for application 10/22, which was refused at appeal (PL13.237186). Under this earlier application, the sand filter would have been laid out in the NW corner of the site. The T and P holes were dug in this corner, too.
- 7.23. Under the current application, a new Site Characterisation Form (SCF) has been completed. The T and P holes were dug in the SE corner of the site. A comparison of the results between the two exercises indicates similar T values at 55, then, and 49.55, now. However, the depths of holes dug were significantly different at 1.9m in the former case and 1 – 1.2m in the latter case. A P value was not previously obtained, as tests in this respect were abandoned, whereas a P value of 29.67 has now been obtained from 0.4m deep holes.
- 7.24. The aquifer category for the site is regional and its vulnerability is high. Under Table B.2 of the EPA’s relevant Code of Practice (CoP), the groundwater protection response is R2₁ and so the CoP advises that WWTSs are “Acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of sub-soil over bedrock...” Under Table 6.2 of the CoP, a minimum depth of 0.9m is required, where secondary treatment systems with a polishing filter are installed. The SCF indicates that the applicant dug a trial hole to a depth of 2.9m without encountering either groundwater or bedrock. Under the proposal, a Bison ASP 6-25 package sewage treatment plant with an Ecoflo tertiary treatment filter would be installed. The accompanying polishing filter would

have an invert level of 0.7m, i.e. 2.2m above the level of the said trial hole and well in excess of the minimum depth of 0.9m.

- 7.25. Under Table 6.3 of the CoP, the T value cited in the new SCF is borderline between two different categories. A precautionary approach would thus require that the more onerous of these two categories be selected, i.e. the one relevant to T values between 50 and 75. Under this category, septic tanks are deemed to be unsuitable and secondary treatment systems maybe suitable with a polishing filter at the depth of the T-test hole. However, the same Table states that where P values are between 3 and 75, polishing filters should be sited at surface level or over ground. In these circumstances, I am inclined to give greater weight to the advice attendant upon the T values.
- 7.26. As cited above, the applicant proposes that the proposed polishing filter would have an invert level of 0.7m. This depth would fall short of the 1 – 1.2m depth of the T-test holes. The applicant has not explained this choice of invert level. As the trial hole indicates that silty clay gives way to gravelly silt at a depth of 1.2m, I consider that it would be prudent to have an invert level that reflects the same.
- 7.27. The applicant advises that his engineer inspected the septic tank and percolation area that serve the dwelling house to the west of the site in 2015 and that they were found to be functioning well. The engineer also checked the water quality of the well within the subject site and the one that serves the said dwelling house. In both cases the ensuing results showed the absence of contamination. I note that these assurances were not previously available when the Board previously refused appeals PL.13.237186. I note, too, that when the Board previously refused PL91.249284 reference was only made to the absence of contamination from the existing well in the subject site over a 20 year period, i.e. no commentary was provided on the well and septic tank and percolation area that serve the dwelling house to the west of the site.
- 7.28. Under the current proposal, the WWTS would be sited to the south of the existing well at a distance of 25m. Under Table B.3 of the CoP, this would be the minimum clearance distance advisable. In this respect, the stated NE direction of groundwater is clearly of importance, too, as is the fact that nearby dwelling houses are situated to the east, south, and west.

- 7.29. At the appeal stage, the applicant has submitted a commentary from Professor Gill of the Department of Civil, Structural and Environmental Engineering, Trinity College Dublin, who has evaluated the proposed WWTS for the site and who expresses the opinion that it would “provide an excellent treatment to the domestic waste water, providing protection to both groundwater and surface water resources in the area.”
- 7.30. The OPW’s flood information map website indicates that the site is not the subject of any identified flood risk.
- 7.31. I conclude that, on the basis of the submitted information and in the light of the relevant Code of Practice, the applicant has demonstrated that the site would be capable of being drained satisfactorily by means of the waste water treatment system proposed and that *prima facie* a safe and efficient water supply can be provided on the site. The proposed invert level of 0.7m should be lowered to 1.2m.

(v) Appropriate Assessment

- 7.32. The site is neither in nor near to a Natura 2000 site. The nearest such sites are the Lower River Shannon SAC to the east, Curraghchase Woods SAC to the north, and Askeaton Fen Complex SAC to the north west, all of which are at some considerable remove from the site. I am not aware of any source/pathway/receptor routes between this site and these SACs and so I consider that its development, as proposed, would be unlikely to have any significant effect upon their conservation objectives.
- 7.33. Having regard to the nature and scale of the proposal and the nature of the receiving environment, no Appropriate Assessment issues arise, and it is not considered that the proposal 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. That permission be refused.

9.0 Reasons and Considerations

It is considered that the design of the proposed dwelling house, which would comprise gable fronted elements and projecting/recessed single storey wing elements, would be unduly complicated and the fenestration in its elevations would lack due proportion and satisfactory alignment. This design would thus fail to reflect the provisions of the Planning Authority's "Rural Design Advice for Individual Houses in the Countryside" and so it would contravene Table 10.2 of the Limerick County Development Plan 2010 – 2016. To accede to it would thus be seriously injurious to the visual amenities of properties in the vicinity and thus contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

20th May 2019