



An
Bord
Pleanála

Inspector's Report

ABP-304214-19

Development	Construction of a house and garage, a new site entrance off a shared private roadway, the installation of a septic tank and percolation area and all ancillary works.
Location	Newtown, Crecora, Co. Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	19/63
Applicant(s)	James and Stacey Moylan.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Grant
Appellant(s)	Gerard Gleeson
Observer(s)	None
Date of Site Inspection	21 st June 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The site is located in Newtown approx. 2.5km south east of the village of Crecora and approx. 10km south of Limerick City. Newtown is a rural area characterised by agricultural lands. There are a number of one-house houses located in the vicinity of the site.
- 1.2. The site has a stated area of 1.648h. It is generally rectangular in shape and slightly elevated. The site is bound to the north by agricultural lands which include a ringfort (monument record number LI022-026), to the south by a 4.8m wide private access road and agricultural lands, to the east by 2 no. houses and agricultural buildings and to the west by a two-storey house.
- 1.3. Access to the site is from the L-6566 via a private road with a shared access arrangement with existing houses.

2.0 Proposed Development

- 2.1. It is proposed to construct a traditional style, single storey house with a gross floor area of 217sqm. The house has a maximum height of 6.4m. The external materials include render and random rubble limestone wall cladding. The house would be set back approx. 36m from the private road. It is also proposed to construct a garage with a gross floor area of approx. 77sqm. The garage has a pitched roof with a maximum height of approx. 5.5m and is located approx. 10m north (rear) of the proposed house.
- 2.2. Vehicular access is proposed from an existing private road, approx. 250m from the junction with the public road L-6566.
- 2.3. The development includes the installation of a septic tank and percolation area.
- 2.4. Water supply is proposed from a private well.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 13 no. conditions. The relevant conditions are noted below: -

Condition 3: Occupancy condition, ensured the house is the applicant's primary place of residence for at least seven years.

Conditions 4 and 5: Related to surface water drainage.

Condition 6: Related to the installation and maintenance of the waste water treatment system.

Condition 11: Required the external finish to be rendered / dashed.

Condition 15: required screen planting along the eastern and western boundaries.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planners report raised no concerns regarding the proposed development and recommended that permission be granted.

3.2.2. Other Technical Reports

Operations and Maintenance Services report: No objection.

Planning and Environmental Services report: No objection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An objection was received from Gerard Gleeson, whose property is located to the east of the subject site. The concerns raised are similar to those in the third-party appeal submission.

4.0 Planning History

PL13.111442, Reg. Ref. 99/421: Permission was refused for a house and garage. The reasons for refusal related to (1) the access off a private road and (2) the installation of a septic tank.

5.0 Policy Context

5.1. Limerick County Development Plan 2010-2016 (as extended)

The site is located in an area of unzoned land. Map 3.2 '*Rural Settlement Strategy*' identifies the site as being located in an 'Area Under Strong Urban Influence'. Policy RS O1 notes that parts of the rural area within commuting distance of Limerick City and Environs are experiencing pressure from the development of urban generated housing in the open countryside. Therefore, applicants are required to demonstrate that their proposal complies with a genuine housing need.

Relevant Policy's include:

RSO1: It is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as '*rural areas under strong urban influence*'. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and normal proper planning and sustainable development criteria. It is an objective of the Council to permit single houses in the area under strong urban influence to facilitate those with a genuine rural housing need in the area. In order to demonstrate a genuine rural housing need, any of the following criteria should be met:

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

Objective RS 08: Occupancy Condition

Objective IN O35: Wastewater treatment systems on un-sewered properties

Section 10.4 – Design Statement is also considered relevant.

5.2. *Sustainable Rural Housing Development Guidelines*

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing

Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.3. **National Planning Framework**

Policy Objective 19: *'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements'.*

5.4. **Natural Heritage Designations**

The subject site is located approx. 3.5km north east of Tory Hill SAC (000439).

5.5. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Gerard Gleeson whose property is located to the east of the appeal site. A detailed history of the site and surrounding sites was included and comments were provided on the relevance of the conditions attached by the Planning Authority. The issues raised are summarised below: -

- Permission has previously been refused for the construction of a house on the subject site.
- The landscaping proposals required by condition would have a negative impact on the visual amenities of the adjoining landowner.
- The applicants do not own the site. The landowner has a number of sites for sale and has already sold a number of sites.
- The private road was constructed to provide access to 1 no. dwelling. Additional traffic could impact on the stability of boundary walls of the adjoining property.
- The site is backland development. It is landlocked and does not have access to a public road.
- The development is contrary to the proper development and planning of the area.

6.2. Applicant Response

The Applicants submission is summarised below:

- The house has been designed to take account of the surrounding environment and would not result in any overlooking, overshadowing or visual intrusion of adjoining properties.
- The site has direct frontage onto a private road that was upgraded under a County Council Local Road Improvement Scheme in 2016. As the road was upgraded in 2016 there is no likelihood of vibrations from this road affecting the appellants boundary wall.
- The applicants meet the relevant housing need requirements as set out in the Development Plan and have strong links to the area.

- The proposed landscaping would not impact on the appellants visual amenities as there is an existing boundary wall along the eastern boundary of the site.
- The applicants have a contract to purchase the site and therefore have a sufficient legal interest to make the application.
- The site is suitable for a wastewater treatment system and well.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

7.1. The main issues in this appeal relate to compliance with rural housing policy, visual amenity and traffic. Water services and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy
- Visual Amenity.
- Traffic.
- Water Services.
- Appropriate Assessment

7.2. ***Compliance with Rural Housing Policy***

7.2.1. The site is located in an area of unzoned land, approx. 2.5km south east of the village of Crecora. Map 3.2 '*Rural Settlement Strategy*' of the Development Plan identifies the site as being located in a 'Rural Area Under Strong Urban Influence'. This area applies a restrictive approach regarding the eligibility of applicants for rural housing need. The associated Policy Objective RS O1 requires an applicant to demonstrate that their proposal complies with a number of criteria. Relevant criteria includes persons who, for family or work reasons wish to live in the rural area, in which they spent a substantial period of their lives (minimum 10 years).

- 7.2.2. The Sustainable Rural Housing Guidelines define rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a genuine housing need might apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area.
- 7.2.3. The Development Plan defines the 'local rural area' by reference to the area within a 10km radius of the applicant's family home. Information has been submitted in support of the application which states that one of the applicants grew up in Roxborough, Ballysheedy, which is located approx. 5km north east of the subject site. A map has been included in the response to the appeal which indicates the location of the applicant's family home. However, having regard to the poor quality of the map provided the exact location of the applicant's family home is unclear. Having regard to the documentation submitted, it is considered in this instance that the applicant would meet the criteria of Objective RS O1 of the Development Plan.
- 7.2.4. Policy Objective 19 of the National Planning Framework requires the applicants demonstrate an economic or social need to live in the rural area. As neither of the applicant's work in agriculture or a rural activity, it is considered that, there is no economic reason to reside in the rural area. With regard to a social need to live in the area it is noted from from the evidence submitted that the applicant's family home is located within the local rural area (within 10km) and there are links to the local school and community. While it is acknowledged that the applicants have links to the area, they have not provided a demonstrable social need to live at this particular site, which is located at least 5km from the applicant's family home. It is, therefore, considered that the applicant does not comply with Policy Objective 19 of the National Planning Framework.
- 7.2.5. The applicants have stated that efforts were made to find alternative sites however, no evidence has been provided to substantiate this claim. In my opinion, the proposed development is urban generated housing which would contribute to the encroachment of random rural development and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. It is also

considered that the proposed development in an area of unzoned land would negatively impact on the viability of smaller towns and villages.

- 7.2.6. Concerns have been raised in the appeal that the proposed development would constitute ribbon development. The Sustainable Rural Housing Guidelines (Appendix 4) recommend against ribbon development and advise Planning Authorities to form a view as to whether a particular proposal would contribute to or exacerbate ribbon development. The characteristics of ribbon development are stated to include “a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage”. The private road currently serves 2 no. dwellings within 250m of the subject site. Therefore, having regard to the criteria set out in the guidelines, it is my view that the proposed development would not constitute ribbon development.

7.3. **Visual Amenity**

- 7.3.1. Concerns were raised in the appeal that the landscaping required by the Planning Authority, by way of condition, would negatively impact on the existing visual amenities of the adjoining property. Condition no. 15 required that screen planting consisting of trees of native broadleaf species be provided along the east and western boundaries of the site.
- 7.3.2. The rear (western) elevation of the appellants house is located approx. 22m from boundary with the subject site. It is noted that there is an existing wall located at this boundary. Having regard to the existing boundary treatment and the distance of the appellants house to the boundary it is considered that the landscaping proposals would not negatively impact on the appellants existing visual amenities.

7.4. **Traffic**

- 7.4.1. Access to the site is from the L-6566 via a shared private laneway which is approx. 4.8m in width. A drawing has been submitted showing sightlines of over 100m in both directions onto the L-6566 and over 90m onto the private laneway. The laneway currently provides access to 2 no. existing houses. There is an existing gate along the laneway which provides access to one of the existing dwellings. It is noted that the laneway was upgraded in 2016 under a County Council Local Road Improvement Scheme in 2016.

7.4.2. Concerns were raised in the appeal regarding the impact that additional vehicular movements would have on the structural stability of the adjoining property. Having regard to the limited number of additional vehicular movements the proposed development would generate and the recent upgrading of the carriageway it is my view that the proposed development would not result in a traffic hazard or generate any safety issues.

7.5. **Water Services**

7.5.1. It is proposed to install a septic tank and percolation area with discharge to ground water. The septic tank would be located approx. 13m to the south (front) of the house with the percolation area located approx. 3m to the south of the septic tank. The proposed system reaches and exceeds the recommended separation distances as set out in the EPA Code of Practice.

7.5.2. The submitted Site Suitability Assessment Form states that the trial hole with a depth of 2.3, recorded 300mm topsoil; 400mm of silt / clay; 1300mm of clay; and 300mm sand. With regard to the percolation characteristics of the soil, a T value of 11.39minutes / 25mm was recorded. This indicates that the site is suitable for the installation of an on-site domestic waste water treatment system.

7.5.3. It is also proposed to provide a bored well approx. 20m to the north (rear) of the house to serve the proposed development. The well is located approx. 50m up slope from the proposed percolation area. Table B3 of the EPA Code of Practice requires a minimum separation distance of 25m between wells and wastewater treatment systems, on a level gradient. The separation distances between the existing and proposed wells and the proposed wastewater treatment system, therefore, exceeds this requirement.

7.5.4. Having regard to the information submitted I am satisfied that that the subject site is suitable for the installation of the proposed packaged wastewater treatment system with polishing filter and a bored well.

7.6. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development and the distance from the 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

I recommend that permission be refused for the reasons stated in the attached schedule.

9.0 Reasons and Considerations

1. The subject site is located within an 'area under urban influence' which is an area under significant pressure for rural housing, as identified in the Limerick County Development Plan 2010 -2016 (as extended), the Sustainable Rural Housing Guidelines and in the National Planning Framework. National Policy Objective 19 aims to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy and would be contrary to the proper planning and sustainable development of the area.

Elaine Power
Planning Inspector

7th August 2019