



An
Bord
Pleanála

Inspector's Report ABP 304675-19

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| Development | House, waste water treatment unit and associated site works. |
| Location | Meenatarriff, Newmarket, Co. Cork |
| Planning Authority | Cork County Council |
| Planning Authority Reg. Ref. | 18/6458 |
| Applicants | James & Patricia Biggone |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions |
| Type of Appeal | 3 rd Party v. Grant |
| Appellants | Donal & Maura Murphy |
| Observer(s) | None |
| Date of Site Inspection | 12/08/19 |
| Inspector | Pauline Fitzpatrick |

1.0 Site Location and Description

The site, which has a stated area of 0.648 hectares, is in the townland of Meenatarriff c.3km to the west of Newmarket in north County Cork. It is accessed from a narrow cul-de-sac road (L-95781-4) off regional road R578. It is approx. 3.5 metres wide and slopes up northwards from its junction with the regional road. It provides access to 7 dwellings, 3 of which have associated sheds which appear to be used for commercial purposes. The R578 Newmarket to Ballydesmond Road is relatively straight in alignment in the vicinity of the lane. The 80kph speed limit applies. One off housing ribbons along the northern side of the regional road. The topography of the area slopes down to the Glenlara River to the north of the regional road. The site is c. 70 metres to the north of same

The site is rectangular in shape sloping down from north to south. As a consequence, the site is elevated and partially visible from the R578. A dwelling on lower ground with frontage onto the regional road backs onto the site. The field is served by an agricultural entrance in its south-western most corner with its boundaries delineated by mature hedgerows. Ground conditions were noted to be dry underfoot.

2.0 Proposed Development

The application was received by the planning authority on the 17/09/19, with unsolicited further information received 03/10/18 and further plans and details received 23/04/19 following a further information request dated 01/11/18.

The proposal entails the construction of a single storey dwelling (with attic storage) to be served by a new entrance to be located roughly in the centre of the boundary onto the lane. A detached garage is also proposed.

The dwelling is to be served by a wastewater treatment system and polishing filter. As per the site suitability assessment the depth to bedrock is 1.65 metres with no water encountered in the trial hole. A T value of 12.47 and P value of 7 were calculated. Water supply is to be via a bore well.

The covering letter accompanying the application states that the applicants acquired the site in 2015. The family home of one of the applicants is immediately to the north

of the site. They own and live in a house in Newmarket. Ms. Biggane works in Mallow, Mr. Biggane works in Little Island.

By way of further information the following were submitted:

- Hydrological report
- Screening for Appropriate Assessment report
- Details of bore wells and percolation areas within 250 metres of the site

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 24 conditions including:

Condition 2: Occupancy clause

Condition 21: Any bored well to be at least 50 metres from any existing or proposed effluent treatment system.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 01/11/18 states that from the details submitted the applicants are considered to meet the relevant development plan settlement policy criteria. There is a high level of existing development in the immediate vicinity with 16 no. units within 400 metres of the site. While the levels of development and history in the area are noted, the proposal can be considered at this location from a density viewpoint having regard to its infill nature, the report from the Area Engineer and development plan policy. The substantial level of cut and fill required on the site are noted. It is considered that the proposal can be accommodated from a siting and design viewpoint. A request for further information in line with the requirements of the other technical reports summarised below in addition to submission of an attic floor plan recommended. The 2nd report dated 20/05/19 following further

information considers that the development can be accommodated on the site. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

An email from the Ecologist dated 31/10/18 notes the proximity of the site to the Blackwater River SAC. Further details are required to complete AA Screening. The applicants could be advised that they could pre-empt such a determination by submitting a NIS. The 2nd report dated 14/05/19 following further information accepts the conclusions of the AA Screening report. On the basis of the information provided and taking account of site conditions, in particular the lack of hydrological connectivity to the Glenlara River, she is satisfied that any potential for the proposal to give rise to significant negative impacts on any Natura 2000 site can be screened out.

The 1st Area Engineer's report dated 01/11/18 requires details including details of proposed entrance walls and piers, distance between the bore well and existing percolation area upslope of same, details of a proprietary effluent treatment system and raised polishing filter due to the presence of shale in the trial hole and details of existing private wells and percolation areas within 250 metre radius of the site. The 2nd report dated 17/05/19 following further information has no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised relate to location of access, impact on water supply, traffic and density of housing.

4.0 Planning History

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

5.0 Policy Context

5.1. 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.

5.2. Cork County Development Plan 2014

The site is within a structurally weaker rural area.

Objective RCI 4-6: These less populated areas are more distant from urban areas and suffer from persistent population decline with lower demand for rural housing.

Therefore, it is an objective to accommodate permanent residential development as it arises in Structurally Weak Rural Areas subject to good planning practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

Objective RCI 6-2: Servicing Individual Houses in Rural Areas

Ensure that proposals for development incorporating septic tanks or proprietary treatment systems comply with the EPA Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses (p.e. < 10) or any requirements as may be amended by future national legislation, guidance, or Codes of Practice.

Section 4.6.7 - The Sustainable Rural Housing Guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future

demands for the provision of public infrastructure as well as visual impacts. Therefore, it is the policy of the Council to discourage development which would contribute to or exacerbate ribbon development. (defined by Cork County Council as five or more houses on any one side of a given 250 metres of road frontage). Intending applicants are advised to consult with the Cork Rural Design Guide in relation to site selection.

Section 4.6.8 The Planning Authority will assess whether a given proposal will exacerbate such ribbon development, having regard to the following:

The type of rural area and circumstances of the applicant;

- The degree to which the proposal for a single dwelling might be considered an infill development;
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development;
- Local circumstances, including the planning history of the area and development pressures; and
- Normal Proper Planning and Sustainable Development Considerations

Objective RCI 6-3: Presumption against development which would contribute to or exacerbate ribbon development.

5.3. **Natural Heritage Designations**

The Blackwater River (Cork/Waterford) SAC is c. 47metres to the south of the site.

5.4. **Environmental Impact Assessment**

Having regard to the nature and extent of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an 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 appellants reside in the dwelling on the opposite side of the lane. The grounds of appeal can be summarised as follows:

- The lane provides access to 7 dwellings, 3 of which have businesses attached. The lane is also used by two farmers to access their lands. The traffic generated by the existing development gives rise to a hazard.
- Slurry spread on the site in the past has contaminated their water supply.
- A further dwelling on the land would adversely impact their amenities and the value of their land.

6.2. Applicant Response

The response can be summarised as follows:

- The applicants comply with the county development plan settlement policy criteria set out in objective RCI 4-6.
- The proposal is an infill site and complies with the provisions of the above plan objective and the Rural Housing Guidelines 2006.
- The house design is suitable. A landscaping plan accompanies the application.
- There is no potential for the dwelling to give rise to significant negative effects on the SAC.
- The proposed access will have adequate sightlines, 50 metres measured from 3 metres back from the road edge, so no traffic hazard issues arise.
- The Area Engineer and Planner raised no objection on traffic or access grounds.
- The proposal is in accordance with objectives TM 3-2 and TM 3-3 of the development plan.

- The traffic generated by local enterprises is outside the control of the application.
- The use of a local road by farmers would be expected in a rural area.
- There is no basis for the view that the proposal would adversely impact the value of the appellants' land.
- The dwelling would ensure no further spreading of slurry on the field and no further contamination of their water supply will arise.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Section 131 Notice**

Due to the location of the site relative to designated sites certain prescribed bodies were invited to make a submission on the appeal. No responses received.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Settlement Location Policy and Pattern of Development
- Access and Traffic
- Site Servicing
- Appropriate Assessment

7.1. **Settlement Location Policy and Pattern of Development**

As per the current Cork County Development Plan the site is within a structurally weaker area which suffers from persistent population decline with lower demand for rural housing. As evidenced on day of inspection the immediate area is

characterised by a notable level of one off housing along the regional road to the south whilst the cul de sac serving the site provides access to 7 no. dwellings on both sides over a distance of approx. 650 metres. In my opinion such a pattern of development somewhat belies the said designation.

I note from the details accompanying the application that one of the applicants is from the area with her family home immediately to the north of the appeal site. They own and reside in a dwelling in Newmarket with their places of work stated to be Mallow and Little Island respectively. Whilst the applicants may meet the settlement location policy of the current development plan they do not appear to need to reside at this location on the basis of an economic or social imperative.

I note that reference is made in the planner's reports on file to the proposal constituting an infill development. Notwithstanding the proliferation of housing in the immediate vicinity the parameters set for what constitutes ribbon development (defined as 5 or more houses on any one side of a given 250 metres of road frontage) do not apply in terms of the housing accessed from the cul-de-sac road. As such I do not consider that the site can be appropriately referred to as an infill site and therefore the provisions as set out in section 4.6.8 of the plan with respect to ribbon development cannot reasonably be applied.

Notwithstanding the provisions of objective RCI 4-6 of the County Development Plan I submit that the proposed development, in the absence of any definable or demonstrable based need for a house in this rural area, would add to an already unacceptable density of development that would exacerbate and consolidate the pattern of haphazard rural housing which, in itself, would lead to an erosion of the rural and landscape character of this area. I would also submit that the preponderance of such development in such close proximity to the town of Newmarket c. 3km to the east would exacerbate the challenges such small towns face in terms of consolidation, growth and enduring viability. This, in my opinion, would run counter to objective 19 of the National Planning Framework which specifically requires that due consideration is given to the viability of smaller towns and rural settlements in facilitating the provision of single housing in the countryside outside areas under urban influence. I therefore recommend refusal in this regard.

7.2. Access and Traffic

The minor cul-de-sac road from which access is proposed serves 7 dwellings, 3 of which appear to have commercial enterprises attached. The appellants' dwelling is immediately opposite the site. The road is approx. 3.5 metres in width and cannot accommodate two way vehicular movements with passing opportunities available via the entrances to existing dwellings. The horizontal and vertical alignment of the road north of the site precludes adequate forward visibility but the road along the frontage of the site is relatively straight with reasonable sightlines available.

In view of the location of the site at the southern end of the road close to its junction with the regional road I consider that the additional vehicular movements that would result from an additional dwelling could be adequately accommodated without giving rise to traffic hazard. I note that the Area Engineer had no concerns in this regard.

7.3. Site Servicing

As per the site suitability assessment accompanying the application the depth to bedrock is 1.65 metres with no water encountered in the trial hole and shale at a depth of 700mm. A T value of 12.47 and P value of 7 were calculated. The septic tank and percolation arrangement originally proposed for effluent disposal was replaced by a proprietary effluent treatment system and raised polishing filter to address the said presence of shale.

Whilst I would have reservations as to the density of development served by individual effluent treatment systems within a 250 radius of the site which is illustrated on a site survey location map submitted by way of further information, the design solution would be in accordance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses including the separation distances to be maintained to the well serving the appellants' property (c. 50 metre separation).

The issue of spreading of slurry on the field and contamination of the appellants' well by same is not a matter for assessment or comment in this appeal.

7.4. Appropriate Assessment

The application, by way of further information, is accompanied by a Screening Report for Appropriate Assessment and a Hydrological Report.

Project Description and Site Characteristic

The site location and proposed development are as described in sections 1 and 2 above.

Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives

The site is located approx. 47 metres to the north of the Blackwater River (Cork/Waterford) SAC (site code 002170). The regional road R578 separates the sites. The qualifying interests of the site include sea and fresh water habitats and species. Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation status of the identified habitats and species.

Assessment of Likely Effects

As the site is not within the designated site no direct impacts will arise. The site comprises of modified improved agricultural grassland and does not support habitats or species that are qualifying interests of the site or of particular ex-situ ecological value for such qualifying interests.

There are no over ground drainage ditches linking the sites. It is likely to be hydrologically linked to the river and associated SAC through groundwater flow paths.

Surface water already percolates to ground, and this will continue through the proposed installation of 3 soakaways and retention of greenspace around the dwelling. The public road, hedgerows and areas of grasslands between the site will also prevent any runoff reaching the SAC.

A site suitability assessment report confirms that the proposed wastewater treatment system fulfils the appropriate EPA requirements for same. It is considered that the proposed discharge of treated wastewater will have an imperceptible impact on the designated site due to the separation distance of 132 metres between the proposed polishing filter and the Glenlara River along with the calculated time of travel of 1.6 years for water/treated effluent to reach the river.

In terms of cumulative impacts I have regard to the location of the site. I am not aware of any large planning or permitted development in the vicinity.

Screening Statement and Conclusions

It is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular Blackwater River (Cork/Waterford) SAC (site code 002170) in view of the site's Conservation Objectives and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

Reasons and Considerations

Having regard to the pattern and density of individual housing development in the vicinity of the site, the site location in proximity to the town of Newmarket and to National Policy Objective 19 of the National Planning Framework, adopted by the Government which states that regard to the viability of smaller towns and rural settlements will be had when facilitating the provision of single housing in the countryside in rural areas not under urban influence, the Board is not satisfied that the applicants' housing needs could not be satisfactorily met in an established smaller town or village/settlement centre. The proposed development would give rise to an excessive density of development, would contribute to the further encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would militate against the viability of smaller towns and rural settlements. The proposed development would, therefore, contravene the Ministerial Guidelines, and would be contrary to national policy and to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Planning Inspector

September, 2019