



An
Bord
Pleanála

Inspector's Report

ABP-304678-19

Development	The construction of a house and garage with a wastewater treatment system, new entrance and well and associated site works.
Location	Blossomhill, Kilcornan, Co. Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	19/296
Applicant(s)	Martin Kiely
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Neil Rush
Observer(s)	None
Date of Site Inspection	21 st August 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located in Blossomhill, approx. 300m south of the N69 and approx. 16km south west of Limerick City. Blossomhill is a rural area characterised by agricultural lands with associated houses. There are a number of one-off houses located in the immediate vicinity of the site.
- 1.2. The subject site is generally rectangular in shape and has a stated area of 0.347ha. The site currently comprises agricultural lands that are level and open. It is bound to the north, south and west by agricultural lands. The eastern boundary of the site with the public road (L-6014) comprises a stonewall and hedgerow.
- 1.3. There is an existing vehicular access to the site from the local road network. The L-6014 is approx. 4m in width with no footpaths or public lighting.

2.0 Proposed Development

- 2.1. It is proposed to construct a traditional style, single storey house with a gross floor area of 212sqm. The house has a maximum height of 7.2m with a pitched roof. The external materials include render / selected stone finish. The house would be set back approx. 20m from the public road. It is also proposed to construct a garage with a gross floor area of approx. 25sqm. The garage has a pitched roof with a maximum height of approx. 4.9m and is located approx. 5m to the rear (west) of the proposed house.
- 2.2. A new 4m wide vehicular access is proposed from the L6014. The proposed access is located approx. 300m from the junction the N69.
- 2.3. The development includes the installation of a wastewater treatment system and percolation area. Water supply is proposed from a private well.
- 2.4. A letter of consent from the landowner was included with the application.
- 2.5. ***Unsolicited Further Information lodged 3rd May***

To improve the available sightlines, the proposed vehicular access was relocated approx. 6m north of the previously proposed location.

2.6. ***Unsolicited Further Information lodged 14th May 2019***

Details of the proposed wastewater treatment system and a copy of the applicants driving licence were submitted.

2.7. ***Unsolicited Further Information lodged 20th May 2019***

Legal papers regarding the applicant's marital status were submitted.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant Permission subject to 15 no. conditions. The relevant conditions are noted below: -

Condition 1: Clarified that permission was granted for the development submitted by way of unsolicited further information.

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

Conditions 5 and 6: Related to surface water drainage.

Condition 7: Related to the installation and maintenance of the waste water treatment system.

Condition 11: Required the external finish to be agreed with the Planning Authority

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

The Area Planners report raised no objection to the proposed development and recommended that permission be granted subject to conditions.

3.2.2. ***Other Technical Reports***

- Area Engineer (Operations and Maintenance Services) final report recommended conditions.

- Area Engineer (Planning and Environmental Services) report recommended conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An objection was received from Neil Rush. The concerns raised are similar to those in the third-party appeal submission.

4.0 Planning History

Reg. Ref. 07/2437: Permission was granted in 2007 to construct a house with wastewater treatment system.

Reg. Ref. 09/378: Permission was granted in 2009 to alter the design of a house approved under Re. Ref. 07/2437 and to construct a domestic garage.

Reg. Ref. 10/959: Permission was granted in 2011 to alter the design of a house approved under Reg. Ref. 07/2437 and Reg. Ref. 09/378.

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 of Strong Agricultural Base'. These areas have a strong agricultural base that are restructuring to cope with changes in the agricultural sector and have an extensive network of smaller rural towns and villages and other settlements. It is an objective of Policy RS O2 to recognise the housing need of people intrinsic to the rural local area subject to applicants demonstrating that their proposal complies with a genuine housing need.

Relevant Policy's include:

RSO2: *In order to demonstrate a genuine rural housing need, any of the following criteria should be met:*

(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; or

(b) the applicant is engaged in working the family farm and the house is for that persons own use; or

(c) the applicant is working in essential rural activities and for this reason needs to be accommodated near their place of work; or

(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 have spent a substantial period of their lives (minimum 10 years) and are seeking to build their first home in the local rural area.

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 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 stronger rural areas. These are areas where population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas. The key objective is to consolidate and sustain the stability of the population and to strike a balance between development activity in smaller towns and villages and wider 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. 450m east of Curraghchase Woods SAC (000174)

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 Neil Rush. The issues raised are summarised below: -

- Concerns raised regarding the administrative processes in Limerick City and County Council regarding the submission of unsolicited further information. In addition, there are discrepancies in the public notices and insufficient details have been provided on the drawings submitted.
- The development is not compliant with Objective IN O35 and would result in the contamination of groundwater. The main public water supply which runs under the N69 should be extended to the subject site.
- The applicant is not compliant with Objective RS O2 and does not have a genuine local need to live in the rural area. The proposed development would result in an excessive concentration of development in the rural area and would constitute ribbon development.
- There is an unauthorised vehicular access to the site, this issue has not been addressed in the application. It is unclear if it is intended to retain or remove this access.
- The proposed sightlines are insufficient and would result in a traffic hazard.
- Landscaping details are not sufficient. The impact on the appellants visual amenity is unclear.

6.2. Applicant Response

The applicant's response is summarised below:

- Unsolicited further information was submitted in accordance with the Development Management Guidelines.
- There was no ambiguity with the wording on the public notices.
- Permission for a house has previously been granted on the site.

- There was an existing vehicular access to the site prior to the applicant's interest in the site. It was widened and made safe to allow for vehicular access. This is a temporary arrangement. It is intended that this access would be removed and the wall and hedging would be reinstated.
- The Area Engineer has no objection to the location of the vehicular access and available sightlines.
- Landscaping proposals have been included within the design statement. The boundaries would be planted with a double row of native hedging species. In addition, 2 no deciduous trees would be planted to the front of the site to provide additional screening. Soft landscaping would also be provided around the perimeter of the house.
- The site is suitable for a wastewater treatment system and percolation area. the Planning Authority raised no concerns regarding contamination of groundwater.
- The proposed development would not constitute ribbon development or over concentration of residential development.
- The applicant is from the local rural area (within 10km) and has a housing need due to his current marital status.
- The house has been designed to ensure it would not negatively impact on the existing residential amenities of adjoining properties.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

- 7.1. The main concerns raised in the appeal relate to compliance with rural housing policy, water services, traffic and visual amenity. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. It is noted that the appellant has also raised concerns regarding

discrepancies with the public notices and drawings submitted to the Planning Authority. The main issues can be dealt with under the following headings:

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

7.2. *Compliance with Rural Housing Policy*

- 7.2.1. Concerns were raised in the appeal that the applicant has not demonstrated a genuine rural housing need and that the proposed development would result in an excessive density of housing in the rural area.
- 7.2.2. The site is located within an 'Area of Strong Agricultural Base' as identified in Map 3.2 '*Rural Settlement Strategy*' of the Development Plan. In recognition of this traditional strong agricultural base it is an objective to facilitate the housing need of people intrinsic to the rural local area, subject to applicants demonstrating that their proposal complies with a genuine housing need. The Development Plan also notes that to support the development of services and infrastructure, and to take pressure off development in the open countryside, the focus of urban generated housing should be located in the network of existing settlements.
- 7.2.3. The Sustainable Rural Housing Guidelines define stronger rural areas as locations where population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas. The key objective is to consolidate and sustain the stability of the population, while striking a balance between development activity in smaller towns and villages and wider rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas the provision of single house in the

countryside should have regard to the viability of smaller towns and rural settlements.

- 7.2.4. It is noted that there are a significant number of existing houses in the immediate vicinity of the house and that permission was previously granted on the subject site for a house (Reg. Ref. 07/2437), with subsequent permissions granted for alterations to the house (Reg. Ref. 09/378 and Reg. Ref. 10/959).
- 7.2.5. The Development Plan defines the 'local rural area' by reference to the area within a 10km radius of the applicant's family home. The applicant has stated that his family home is located in Ballyvareen, Kildimo however due to a change in marital status he now has a genuine housing need in the local area. Ballyvareen is located approx. 5km east of the subject site. Therefore, having regard to the documentation submitted, it is considered in this instance that the applicant would meet the criteria of Objective RS O2 (d) of the Development Plan.
- 7.2.6. Policy Objective 19 of the National Planning Framework requires an applicant to demonstrate an economic or social need to live in the rural area. It is noted from the information submitted that the applicant's employment is not related to any rural activity and that his place of work varies, therefore, it is my view 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 the information submitted that the applicant's family is located approx. 4km from the site and there are links to the local community. While it is acknowledged that the applicant has links to the local rural area, it is my view that he has not provided a demonstrable social need to live at this particular site. It is also considered that the applicant's housing needs could be satisfactorily met in a smaller town or rural settlement.
- 7.2.7. In conclusion, it is considered that the applicant is compliant with Objective RS O2 of the Development Plan. However, it is my view that he has not sufficiently demonstrated an economic or social need to live at this particular site as required by Objective 19 of the National Planning Framework. In the absence of an identified locally based economic or social need to live in the area, it is considered that the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural

environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of smaller towns and villages.

7.2.8. Concerns were also raised 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 western side of the L-6014 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. **Water Services**

7.3.1. It is proposed to install a wastewater treatment system and polishing filter with discharge to ground water. Concerns were raised in the appeal regarding the over concentration of private wastewater treatment systems in the rural area and the potential for contamination of groundwater.

7.3.2. The proposed wastewater treatment system would be located a minimum of approx. 8.5m to the west (rear) of the house with the percolation area located approx. 2m north of the treatment system. The proposed system reaches and exceeds the recommended separation distances as set out in the EPA Code of Practice.

7.3.3. The submitted Site Suitability Assessment Form states that the trial hole with a depth of 2.1, recorded 200mm topsoil; 1900mm of silt / clay. Rock was noted along one side of the trial hole from a depth of 1.6m. With regard to the percolation characteristics of the soil, a T value of 21.83 was recorded and a P value of 32.83 was recorded. This indicates that the site is suitable for the installation of an on-site domestic wastewater treatment system.

7.3.4. It is also proposed to provide a bored well approx. 45m to the east of the wastewater treatment system. 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.

- 7.3.5. It is noted that the Planning Authority raised no concerns regarding the proposed wastewater treatment system or the potential contamination of groundwater. 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 and that the proposed development is compliant with Objective IN O35 of the Development Plan.

7.4. **Traffic**

- 7.4.1. The proposed vehicular access, as submitted by way of unsolicited further information is approx. 4m in width and is located approx. 4m from the northern boundary of the site. It is proposed to remove approx. 7.2m of an existing stone wall and hedgerow to accommodate the access.
- 7.4.2. The proposed vehicular access would provide 70m sightlines in both directions. Concerns were raised in the appeal that the proposed sightlines are insufficient and could potentially result in a traffic hazard. It is acknowledged that the Design Manual for Roads and Bridges recommends sightlines in excess of 120m in both directions on roads with a speed limit of 80kph. However, having regard to the minor nature of the local road network and the limited number of vehicular movements that would potentially be generated by the proposed development the proposed sightlines are considered acceptable in this instance. It is also noted that the Planning Authorities Area Engineer raised no objection to the design and layout of the proposed vehicular access.
- 7.4.3. Concerns were also raised in the appeal regarding the retention of an existing vehicular access along the eastern boundary of the site. The applicant has stated that this is an existing vehicular access that was restored and widened to facilitate access for site tests associated with the planning application. It is intended that once the proposed access is completed the existing access would be replaced with a stone wall and hedge. It is my view that this issue could be dealt with by way of condition.

7.5. *Visual Amenity*

- 7.5.1. Concerns were raised in the appeal that insufficient details regarding landscaping proposals and boundary treatments were submitted with the application and, therefore, the potential negative impact the development on the appellants existing amenity was unclear. The applicant stated that it is proposed to plant all site boundaries with a double row of native hedging and 2 no. deciduous trees would be planted to the front of the site. In addition, soft landscaping would be provided around the perimeter of the house.
- 7.5.2. Having regard to the existing pattern of development it is my view that the proposed development would not have a significant negative impact on the visual amenities of the area.

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 reason stated in the attached schedule.

9.0 **Reasons and Considerations**

1. The subject site is located within an 'an Area of Strong Agricultural Base', as identified in the Limerick County Development Plan, 2010-2016 (as extended), and a 'Stronger Rural Area' as identified in 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 viability of smaller towns and rural settlements. 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 national policy for a house at this location. The proposed development would, therefore, contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of smaller towns and villages

Elaine Power
Planning Inspector

13th September 2019