



An
Bord
Pleanála

Inspector's Report

ABP-305189-19

Development	Construction of a house and garage.
Location	Killerk West , Darragh , Ennis, Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	19223
Applicant(s)	Niall Casey.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Niall Casey.
Observer(s)	None.
Date of Site Inspection	11 th October 2019.
Inspector	Brid Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of 0.3ha and is located within the rural townland of Kilerk West approximately 9km to the southwest of Ennis in County Clare. The site is located within a larger agricultural field. The front roadside boundary is defined by a hedgerow. The wider landscape is undulating with levels on site falling gently from the road towards the north east. There is an open drain within 5m to the rear north west of the site and a stream within 150m to the north. There are a number of individual dwellings in the vicinity, the closest being two dwellings opposite to the south west.

2.0 Proposed Development

2.1. The proposal as set out involves permission for the construction of a new dwellinghouse 271m² and garage 76.9m² complete with new entrance, sewage treatment system and ancillary works. The proposed dwelling is a two-storey structure with a single storey side annex. The proposed dwelling is to be set back circa 30.5m from the front roadside boundary with garage located to the side and rear. It is proposed to install a Tricel Wastewater Treatment Plant and percolation area to the front of the dwelling. The initial proposal provided for substantial infilling of the site up to 2m. to achieve a finished floor level of 78.1m relative to a spot level of 75.5m on the public road to the front of the site. The extent of proposed infilling was reduced during the course of the application to the Council to achieve a finished floor level of 77m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Following the extension of the relevant time for consideration of the planning application as requested by the first party Clare County Council issued notification of its decision to refuse permission for the following reason:

“The subject site is located within a ‘Western Corridor Working Landscape’, as per the provisions of CDP 13.3 of the Clare County Development Plan 2017-2023, as

varied. In addition, the site is located within an area under ‘Strong Urban Pressure’. As outlined in Chapter 3 of the Development Plan. Having regard to the pattern of development in the area and the extent of residential development as already permitted off this landholding to date, the Planning Authority considers that the proposed development, in conjunction with existing permitted developments, would seriously injure the visual amenities of the area, would represent an unsustainable density of development in a rural area and would militate against the preservation of the rural environment and negatively impact on the efficient provision of public services and infrastructure and would therefore 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 Planner’s report notes that the family landholding is extensive (spanning over 1.7km of road frontage) and lists 9 permitted dwellings since 1995 within the landholding. The proposal would represent the 19th house within that 1.7km extent of road frontage. Concerns arise with regard to the extent of development in this area. Negative visual impact of proposed fill is noted. Refusal was recommended on grounds of excessive density of development, negative visual impact and injury to rural amenity.

3.2.1.2 Second report following extension of appropriate period for determination of the application noted that a meeting had taken place with the applicant’s father (Mr Gerry Casey) Joe Carey TD and Pdraig Hogan (Agent for the applicant) and noted the further information submitted including revised site layout showing reduced fill and case for the applicant’s housing need. The recommendation to refuse was reiterated.

3.2.2 Other Technical Reports

None

3.3 Prescribed Bodies

No submissions.

3.4 Third Party Observations

Representations were made by Joe Carey TD.

4 Planning History

Indepth site opposite to the southeast of the appeal site. (Not within the landholding)

248905 17214 Refusal of permission to replace existing cottage with the construction of a passive dwellinghouse including associated site works. Refusal on grounds of non-compliance with rural housing policy and prejudice to public health.

Within the landholding.

18/5 Permission granted to Robert and Marie Wilson to construct a new dwelling house and garage complete with new site entrance, sewage treatment system and ancillary works. Site c140m SW of appeal site and within the landholding. Granted on 1/4/2018.

16/331 Permission granted to Adam Bedder to construct dwelling and garage with new entrance sewage treatment system and associated works. Site c.1.4km southwest of the appeal site.

15/384 Permission granted to Tom Ryan to construct house garage and on-site wastewater treatment system along with ancillary works.

04/2232 Permission granted to Timothy Moriarty for 1.5 storey dwelling, sun lounge, entrance, garage and proprietary treatment system. Site 1km sw of the appeal site.

P03/2769 Permission granted to Annette Conway to construct dwelling house garage and septic tank and ancillary works. 1km sw of the appeal site. Permission was subject to a S47 Land sterilisation agreement signed in 2004 for a five-year period.

P02/2209 Permission granted to Olivia Stackpool & Liam Browne to construct a dwellinghouse, garage, septic tank, puraflo wastewater treatment system and ancillary site works. P07/2009 Permission for garage. Site 600m sw of the appeal site.

P01/477 Outline permission granted to Gerard Casey to construct 2 dwelling houses and septic tanks. Sites 200m NE of the appeal site. Permission was subject to partial landholding sterilisation agreement under S47. 06/1814 and 06/29797 and 02655 subsequent approvals permissions.

P95/522 Permission granted to Gerard Casey to construct dwelling house septic tank. Site c350m sw of appeal site.

5 Policy Context

5.1 Development Plan

5.2 National Planning Frameworks. National 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.”

5.3 Development Plan

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

The site is located within an Area Under Strong Urban Pressure.

CDP 3.11 New Single houses in the Countryside within ‘Areas of Special Control’ refers. 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)

5.4 Natural Heritage Designations

5.4.1 The site is not within a Natura 2000 site. The nearest such site Knockanira House SAC circa 0.9km to the north east of the site. The Lower River Shannon SAC (Site Code 002165) is located within circa 2.6km to the south of the site. The River Shannon and River Fergus Estuaries SPA is within 2.6km to the south of the site. The Newhall and Edenvale Complex SAC is located within 4.2km to the north east of the site.

5.5 EIA Screening

5.5.1 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 The Appeal

6.1 Grounds of Appeal

6.1.1 The first party seeks to address the grounds of refusal and the appeal submission is accompanied by a number of photographs to elucidate the case made as follows:

- The applicant Niall Casey seeks permission for a dwelling for his own permanent residence on his father's land. Niall the eldest of 2 sons and will in time take over the running of the farm. The site was selected as it is the only suitable site on the north east point of the landholding away from other development.

- Having regard to existing trees and hedging and proposed finished floor level 1.5m lower than the road the proposed development will not be unduly visible on approach.
- Refute assertion that there is an excessive accumulation of houses in the area.
- It is proposed to retain the front boundary save for at the entrance to mitigate visual impact.
- Note significant drop in levels on the land to the north east of the site and the area is prone to flooding therefore no development can be carried out at this location.
- The nearest dwelling to the south east is 150m away with ground in between being unsuitable for wastewater treatment.
- Planning Authority's concerns appears inconsistent with processing of other applications.
- The applicant's father has a significant length of road frontage on the landholding and has sold a number of sites to local individuals over the years. It is unreasonable for the Planning Authority to now determine that capacity has been reached.
- Applicant is not in a position financially to purchase the site in a different location.

6.2 Planning Authority Response

6.2.1 The Planning Authority is satisfied that the issues raised in the appeal were fully considered in the assessment of the application. Clare County Council respectfully requests An Bord Pleanála to uphold the Council's decision to refuse permission.

7 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 headings:

- 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. In terms of definitions “*A Local Rural Person(applicant) is a person who was born within the local rural area, or who is living or has lived permanently in the local rural area for a substantial period of their life at any stage(s) prior to making the planning application. It therefore includes returning emigrants seeking a permanent home in their local rural area who meet this definition. It also*

includes persons who were born or lived in a rural area for substantial periods of their lives but that area is now within a settlement boundary / zoned land.”

7.2.2 The applicant is seeking to build a house on his father’s landholding and while his current occupation is as bar staff / engineer at Knox’s Public house in Ennis, it is envisaged that he will take over the running of the family farm in due course. The applicant currently resides at his parent’s home c350m to the west of the appeal site. I consider that the applicant qualifies as a local rural person and based on the information provided qualifies in terms of rural housing policy and I note that this is not disputed by the Planning Authority. I note that the concerns of the Planning Authority relate to the extent of one-off housing development which has already taken place within the landholding. In my view these concerns regarding the concentration of development in this rural area are reasonably well founded.

7.2.3 I note that in reply to question 7 on the supplementary application form in response to the question “Indicate if, in the event of a grant of a permission, the landowner would be willing to enter into a formal undertaking not to develop further sites for residential or non-agricultural development” the applicant has responded No. I also note that full details of the landholding have not been provided on the appeal file and whilst the applicant has discounted alternative locations within the landholding, I consider that such alternatives should be explored. In terms of the character of the area, it is evident from site visit and reviews of mapping that the appeal site is within an area of sustained pressure for random rural housing development. Whilst the site is essentially rural in nature urban pressures are very visible and as such the restricted policies of the Development Plan are entirely reasonable and consistent with national policy on the basis of the proper planning and sustainable development of the area. In my view the proposed development would exacerbate a pattern of haphazard development and increase the pattern of suburbanisation of this area.

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

7.3.1 As regards visual impact I consider that the concerns of the planning authority in terms of the cumulative visual impact of haphazard development in this rural area

are valid. The proposal involves significant fill to facilitate the construction and I consider that such intervention with the landscape has the potential for increased visual intrusion and detriment to rural amenity. I consider that the cumulative visual impact of ad hoc uncoordinated piecemeal development within this unserved rural area would be contrary to the sustainable rural housing guidelines and contrary to the proper planning and sustainable development of the area.

7.4 Servicing - Wastewater Treatment and Traffic

7.4.1 I note that the submitted site suitability assessment indicates that the trial hole was excavated to 1.9m below ground level. Bedrock was not encountered. Water table was encountered at 1.8m. Soil profile is noted to comprise gravelly silt with cobbles. granular topsoil leading at .2m to sandy silt with boulders. A T value of 17.47 was recorded. I note that it is proposed to provide a treatment unit discharging to a percolation area. I note that the site assessment does not acknowledge the drain (indicated as stream on the site layout) located within 10m of the rear boundary of the site as a potential target at risk. I also note comments of the first party with regard to seasonal flooding adjacent to the site. I note that these are new issues in the context of the appeal.

7.4.2 As regards traffic safety the site abuts a narrow minor local road and whilst the achievement of sufficient sightlines is feasible it will involve the removal of mature hedgerow along the existing front boundary which 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.

Reasons and Considerations

Having regard to the location of the site within an area under strong urban influence in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005, wherein it is policy to distinguish between urban-generated and rural-generated housing need, and to National Policy Objective 19 as set out in the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence such as in the current case which states that is the policy 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 viability of smaller towns and rural settlements”. It is considered that having regard to the extent of residential development permitted to date on the landholding the proposed development in conjunction with existing and permitted development would not be in accordance with national policy and the Development Plan. 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. The proposed development would, therefore, be contrary to these Ministerial Guidelines, to national policy and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

6th November 2019