



An
Bord
Pleanála

Inspector's Report ABP-306201-19

Development	New two-storey dwelling house, domestic garage, pumped effluent treatment system, and a new site entrance.
Location	Gardenhill, Castleconnell, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	19/974
Applicant(s)	Gillian & Eddie Rohan
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Gillian & Eddie Rohan
Observer(s)	None
Date of Site Inspection	12 th March 2020
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 1.3 km to the ESE of Castleconnell in an area of open countryside. The M7 passes this site to the west on an embankment. It is accessed off a local road (the L1110), via a single lane private road of straight alignment, which parallels the motorway by its side.
- 1.2. The site itself is of regular shape and it extends over an area of 0.27 hectares. This site of slightly uneven form and it is presently in agricultural use for grazing. The site is composed of the northernmost portion of its host field and so it is enclosed on its western and northern boundaries by a fence and a hedgerow and ditch, respectively. Its eastern and southern boundaries are undefined "on the ground".

2.0 Proposed Development

- 2.1. The proposal would entail the construction of a five-bed, two-storey dwelling house (275 sqm), which would be sited towards the centre of the site on a SW/NE axis. The main body of the dwelling house would be rectangular form under a double pitched roof. The front elevation would have two feature gabled elements and the rear elevation would have two dormer windows. A domestic garage (62 sqm) would be sited on the NW side of the dwelling house and a canopy would span the gap between these two buildings.
- 2.2. The proposed dwelling house would be accessed off the adjacent private road to the west, via a recessed entrance and driveway and it would be served by the public water mains, an on-site pumped effluent treatment system, and soak pits.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for the following reasons:

- Haphazard backland development/seriously injurious to amenities of existing residential properties,

- Traffic generated by the proposal would not be capable of being accommodated satisfactorily on the sub-standard road network and it would materially contravene Objective IN 09 of the CDP,
- Noise from the M7 would exceed WHO recommended levels and so adverse health effects would ensue, and
- Sightlines at the junction between the private road to the site and L1110 would be inadequate, thus jeopardising road safety.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See reasons for refusal.

3.2.2. Other Technical Reports

- Irish Water: Further information/conditions with respect to connection to the public water mains.
- TII: Defers to Planning Authority.
- Limerick City & County Council:
 - Physical Development: Objects, on the grounds of noise nuisance/public health.
 - Mid-West NRDO: Further information requested with respect to a revised noise report, consultation with TII, and status of “private road”.
 - Operations and Maintenance Services: Recommends that works be undertaken to achieve a satisfactory SE sightline along the L1110.

4.0 Planning History

- PP9888: Pre-planning consultation by e-mail.
- 19/122: Similar proposal to the current one refused for substantially the same reasons.

5.0 Policy and Context

5.1. Development Plan

Under the Limerick County Development Plan 2010 – 2016, the site is shown as lying in a rural area under strong urban influence. Objective RS 01 is thus of relevance.

5.2. Natural Heritage Designations

Lower River Shannon SAC (002165)

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 – 2019, where more than 500 dwelling units would be constructed the need for a mandatory EIA arises. The proposal is for the development of 1 new build dwelling unit. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant threshold, 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

- The nearest existing dwelling house is 160m away and it is owned by the vendor of the subject site. The next nearest are 230 and 300m away.
- The road to the site is straight with grass verges. It would be more than adequate to accommodate traffic generated by the vendor's dwelling house and the proposed one.
- Noise pollution would be mitigated by the following measures:
 - Landscaping, including the planting of trees and hedging between the site and the M7,

- Triple glazing,
- No vents, and
- A heat recovery system.
- The junction at issue was constructed 10 years ago by the NRA and its sightlines are adequate.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of national planning guidelines, 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) Siting,
- (iii) Amenity,
- (iv) Access,
- (v) Water, and
- (vi) Screening for Stage 1 AA.

(i) Rural Settlement Policy

7.2. Under the CDP, the site lies within a rural area that is deemed to be under strong urban influence. Thus, the applicants for the proposed dwelling house on this site must be able to demonstrate that they have a local need under Objective RS 01 of this Plan. The relevant criteria are thus as follows:

(a) The application is being made by a long-term landowner or his/her son or daughter, 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 spent a substantial period of their lives (minimum 10 years).

7.3. National planning guidelines address the question of candidature for a new rural dwelling house most recently under National Policy Objective (NPO) 19 of the National Planning Framework (NPF), which states the following:

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.

7.4. The applicants have completed a supplementary form in which Gillian Rohan states that she has lived her entire life in Gardenhill and that she presently resides therein in a mobile home with her husband and two children. An accompanying location plan shows that this place of residence is close to the subject site. Documentary evidence in the form of a birth certificate and a letter confirming her attendance at Castleconnell National School, between 1982 – 1990, and her residence in Gardenhill during that period has been submitted.

- 7.5. The applicants have not stated their employment and so they have not submitted any evidence of an economic need to reside on the site for reasons of work. Their case appears to rest on Gillian's residency in the locality. *Prima facie* criterion (d) of Objective RS 01 could be applicable. However, the NPO 13 of the NPF specifies that a demonstrable social need should exist and the Board have interpreted this to mean that residency *per se* does not equate with such need. Thus, as greater weight needs to be afforded to the NPF than the CDP, the applicants have not demonstrated that they are candidates for a rural dwelling house.
- 7.6. I conclude that the applicants have not demonstrated that they are candidates for a rural dwelling house on the site.

(ii) Siting

- 7.7. The Planning Authority's first reason for its draft refusal critiques the siting of the proposal in a backland position and expresses concern that it would adversely affect the amenities of existing residential properties in the vicinity. The applicants have responded to this concern by drawing attention to the considerable separation distances that would arise between the site and such properties and so they contend that residential amenities would be unaffected.
- 7.8. The proposal would be sited towards the end of a private road that serves an existing farmhouse/yard to the south. This private road joins the local road further to the south and so the site occupies a backland position in relation to this local road and the said farmhouse/yard. I, therefore, share the Planning Authority's critique that the proposal would effectively constitute backland development.
- 7.9. Normally, rural dwelling houses are accessed by means of dedicated driveways directly from the local road network. The current proposal would represent a departure from this pattern, as it would be accessed off a private road that would be capable of affording access to further similar dwelling houses in the future. Thus, this proposal would create an adverse precedent both for the said road and for the construction of similar roads as a means of affording multiple access points to potential house plots elsewhere. The character of this rural area and its visual amenities would thus be adversely affected.
- 7.10. I conclude that the proposal would constitute effectively backland development, which would risk the establishment of an adverse precedent for further such

development off the private road in question and indeed the similar use of such roads elsewhere with adverse implications for the character and visual amenities of rural areas.

(iii) Amenity

- 7.11. The proposed dwelling house would be sited 50m from the nearside hard shoulder to the M7, which passes along the top of an embankment to the west of the site. While a noise barrier accompanies this edge, it ends at a point c. 75m to the WSW of where the proposed dwelling house would be sited.
- 7.12. The applicant has submitted a Noise Audit of the site, which records noise levels during the morning, afternoon, and evening at three points on the site, i.e. the proposed entrance, garage site and living quarters. These levels are then reduced to reflect open, tilted, and closed window positions to the living quarters.
- 7.13. WHO Guidelines for Community Noise (1999) indicate that indoor thresholds of 35 and 30 dB LAeq apply during the daytime/evening and at night, respectively. The applicant's estimates for the living quarters would exceed these thresholds for the open and tilted window positions to the living quarters. These Guidelines also indicate outdoor thresholds of 55 and 50 dB LAeq if serious or moderate annoyance is to be avoided. The applicant's recordings indicate widespread breaches of these thresholds.
- 7.14. The applicant has identified a series of measures that would in his view mitigate the situation on site. However, these measures would do little to affect the conditions anticipated in the living quarters when windows are in the open or tilted position and they would not affect the conditions prevailing outdoors.
- 7.15. I, therefore, conclude that the noise environment on the site would militate against the establishment of an acceptable standard of amenity to future residents.

(iv) Access

- 7.16. The site is accessed via a private road of single lane form and straight alignment. This road meets the local road (L1110) to the south at right angles. This local road is subject to an 80 kmph speed limit. The sightline to the west is good. However, to the east, it is restricted by the presence of a hedgerow that runs close to the edge of the carriageway.

- 7.17. While the applicants have submitted a sightline plan, which shows western and eastern sightlines with x and y dimensions of 2.4m and 100m, they have not indicated how the latter sightline would be achieved “on the ground”, i.e. consent for the setting back and/or trimming of the hedgerow does not appear to have been secured from the relevant landowner(s). Thus, the applicants have not demonstrated that the requisite eastern sightline is achievable.
- 7.18. I conclude that the applicants have not demonstrated that the junction between the private road to the site and the L1110 would be capable, in practise, of being egressed without compromise to road safety.

(v) Water

- 7.19. The applicants state that the proposed dwelling house would be served by the public water mains. Irish Water states that their records indicate that the nearest such mains is 775m away and so the applicant is advised to explore the feasibility of connecting to this mains by means of a pre-connection enquiry.
- 7.20. The applicants state that surface water run-off would discharge to soak pits on the site and that foul water would be handled by means of an on-site waste water treatment system. In this respect, the applicants have undertaken a site characterisation exercise, which has identified the need to remove a layer of clay 600mm in depth beneath the top-soil that would underlie the proposed sand polishing filter and to replace the same with soil exhibiting P/T values between 3 and 30. It also recommends that a Trica Nova WWTS be installed along with a pump to the aforementioned sand polishing filter.
- 7.21. The OPW’s flood maps do not show the site to be the subject of any identified flood risk. A past flood event is shown as having affected the L1110 to the west of the site, although the accompanying report advised that the attendant risk may be capable of being ameliorated by means of the maintenance of road culverts.

(vi) Screening for Stage 1 AA

- 7.22. The site is neither in nor near a Natura 2000 site. I am not aware of any source/pathway/receptor route between this site and the nearest such sites. Accordingly, no Appropriate Assessment issues would arise.

7.23. Having regard to the nature and scale of the proposal and proximity to the nearest European site, 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

1. The site of the proposal is located within an “Area Under Strong Urban Influence” as set out in the Sustainable Rural Housing Guidelines. In addition, under National Policy Objective 19 of the National Planning Framework, it is national policy to facilitate the provision of single housing in the countryside, in areas under urban influence, based on the core consideration of demonstrable economic or social need to live in a rural area and having regard to siting and design criteria and the viability of smaller towns and rural settlements.

Having regard to the location of the subject site, within the catchment of Limerick City and proximate to smaller settlements, and also having regard to the absence of information as to (a) the applicants’ work, and (b) any social need that may require them to reside on the site, the Board is not satisfied that the applicants have demonstrated an economic and social need to live at this specific rural location, or that the applicants’ housing needs could not be satisfactorily met in a smaller town or settlement.

Accordingly, to permit this proposal, in these circumstances, would contravene National Policy Objective 19 of the National Planning Framework and so be contrary to the proper planning and sustainable development of the area.

2. The proposed dwelling house would constitute backland development off a private road in a rural area. As a new built form in this area, it would detract from its rural character and visual amenities and, insofar as it would establish a precedent for further similar dwelling houses to be sited off this road, such detraction could, in time, be accentuated. Likewise, to accede to this dwelling house would establish a precedent for such development to be sited off other similar private roads in the

County. The proposal would thus be contrary to well-planned and orderly development and, as such, it would not accord with the proper planning and sustainable development of the area.

3. The proposed dwelling house would be sited in a position close to the M7 and so the noise environment on the site would militate against the establishment of a satisfactory standard of amenity for future residents. Accordingly, the proposal would be contrary to the proper planning and sustainable development of the area.
4. The applicants have not demonstrated how, in practise, the requisite easterly sightline at the exit of the private road onto the L1110 would be achieved. Accordingly, to accede to the proposal, in these circumstances, would be premature and would risk a scenario within which traffic generated by the proposal was unable to use the said exit safely. The proposal would thus be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

7th April 2020