



An
Bord
Pleanála

Inspector's Report

ABP-306594-20

Development	Construction of house, wastewater treatment system and associated site works
Location	Castlecrine , Sixmilebridge , Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	19488
Applicant(s)	Teresa Hughes.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Teresa Hughes.
Observer(s)	None.
Date of Site Inspection	19 th March 2020
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal relates to a rural site located within the townland of Castlecrine circa 1km to the northeast of Sixmilebridge in east County Clare. The site has an area of .25hectares and forms part of a larger field pattern. The site is significantly elevated over the local road level and land elevates to a high point to the northeast beyond the site. The road frontage of the site to the southwest forms part of a significant continuous bend therefore access to the site is proposed via an established entrance and proposed driveway between two existing dwellings to the west. The roadside boundary is defined by stone walls and hedging with a post and rail fence to the west adjoining the established dwelling. I note that the site was up to recently part of an extensive area of woodland. The established dwellings to the west overlook a large pond. The local area has a significant concentration of recorded monuments including a ringfort CL052-030 within 120m to the south and a children's burial ground CL052-029 200m to the south west. Within the local area whilst it is rural and agricultural in character the degree of pressure for one off housing development is evident with a significant amount ribbon type development.

2.0 Proposed Development

- 2.1. The application seeks permission for the construction of a dormer type dwellinghouse 239m², wastewater treatment system and associated site works. The proposed dwelling has a render finish and slate / tiled roof. The dwelling is proposed to be set back circa 24m from the roadside boundary at a finished floor level of 13.25 relative to a spot level of 10m on the local road at the site frontage and the finished floor level 9.58m of adjacent dwelling to the west. Wastewater treatment is proposed by way of packaged wastewater treatment system and polishing filter.
- 2.2. Following a request for additional information revisions were made to the proposal including a reduction in finished floor level from 13.25mOD to 12.75OD and the roofpitch was reduced from 40 degrees to 35 degrees resulting in a reduced ridge height from 7.065m to 6.379m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Following an initial request for additional information regarding the applicant's housing need and recommendation for design/siting amendments Clare County Council issued notification of its decision to refuse permission for the following two reasons.

1. The subject site is located in the countryside, within an 'Area of Special Control' and identified as being an Area under 'Strong Urban Pressure', where it is an objective of the Clare County Development Plan 2017-2023 as varied, as set out under CDP 3.11, to permit a new single house for the permanent occupation of an applicant subject to demonstrating compliance with the criteria as set out in CDP 3.11. On the basis of the information received to date, the Planning Authority considers that the applicant has not shown compliance with the criteria as set out in CDP 3.11 of the Plan. Accordingly, the proposed development would materially contravene an objective of the Clare County Development Plan 2017-2023 as varied and would conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in April 2005. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the elevated topography of the site relative to the public road and to the adjacent pattern of development to the west, it is considered that the proposed development, by reason of its siting and design would represent a visually obtrusive and prominent feature in the landscape, which would seriously injure the amenities of the area and of property in the vicinity 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 initial report considers that local rural need has not been demonstrated. Design and elevated siting of the dwelling is considered inappropriate. The second report following submission of additional information notes discrepancies and lack of clarity regarding the applicant's current residence, also enforcement issues apparent within the landholding and concerns remain regarding visual impact, design and siting. Refusal was thereby recommended.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

Irish Water submission notes that the location is served by a group water scheme not a public main and permission from the scheme required.

3.4. Third Party Observations

Representations by Cllr Joe Cooney.

4.0 Planning History

07/1784 Permission granted 23/08/2007 to Neil Keogh for construction of a single storey garage along with all associated site development works.

06/1358 Application by Annette Keogh for construction of a new dwellinghouse with wastewater treatment system soil polishing area and site development works.

Withdrawn.

05/1298 Permission 27/10/2005 granted to Neil Keogh for construction of new stables along with associated site works.

05/386 Angela Keogh Permission 05/05/2005 for construction of new dwelling with septic tank wastewater treatment system.

5.0 Policy Context

5.1.1 National Planning Framework. 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.”

5.2 Development Plan

5.2.1 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)

5.3 Natural Heritage Designations

5.3.1 The site is not within a designated area. The nearest such sites include Ratty River Cave SAC(Site Code 002316) 2km to the northwest is the Danes Hole Poulnalecka SAC (Site Code 000030) 5km to the northeast.

5.4 EIA Screening

Having regard to the nature and scale of the development which consists of a single house in a rural 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 at preliminary examination and a screening determination is not required.

6 The Appeal

6.1 Grounds of Appeal

6.1.1 The appeal submission is accompanied by a number of enclosures demonstrating the applicant's link to the local area. Grounds of appeal are summarised as follows:

- Applicant complies with CDP3.11. Considerable evidence provided to demonstrate local connection.
- Design modified in response to request for additional information, Dwelling is modest meeting the basic needs for a dwelling.

6.2 Planning Authority Response

6.2.1 The submission from the Planning Authority reiterates grounds of refusal. Submission also notes that there may be a number of unauthorised elements on the landholding which is currently under investigation by Enforcement section.

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 & Access
- 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 purchase the site from her son in law. She currently rents a dwelling within the landholding to the north of the pond. Application details outline that the applicant is a carer for her son and wishes to remain close to family. I consider that a local housing need has not been demonstrated. I note that the concerns of the Planning Authority regarding the extent development which has already taken place within the landholding and enforcement issues arising. In my view the concerns regarding the concentration of development in this rural area are entirely reasonable and well founded.

7.2.3 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 prominent height of the site and the cumulative visual impact of haphazard development in this rural area are valid. I consider that the proposed development would give rise to significant visual intrusion and detriment to rural amenity. The proposal would furthermore impact on the setting of the adjacent recorded monuments to the southwest. I also consider that the backland nature of the proposal in terms of the existing dwellings to the west would be detrimental to rural and residential amenity. I consider that the cumulative visual impact of such 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, Traffic & Access

7.4.1 I note that the submitted site suitability assessment indicates that the trial hole was excavated to 2.1m below ground level. Bedrock was not encountered. Water table was encountered at 2.1m. Soil profile is noted to comprise crumb topsoil leading at .2m to sandy gritty clay with threads 100mm 90mm 90mm ribbons slightly dilatant. A T value of 41.75 and P 48.9 were recorded. I note that it is proposed to provide a treatment unit with subsequent pumping via sump too calming chamber and subsequent discharge via gravity to a percolation area. I consider that whilst wastewater treatment in accordance with EPA Code of Practice Wastewater Treatment and Disposal Systems Servicing Single Houses EPA 2009 may be feasible concerns arise with regard to the concentration of such systems in the area.

7.4.2 As regards traffic safety given the nature of the proposed development and established access no safety issues arise. However, I note that the proposed access via the existing entrance is not denoted as a right of way.

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.

The proposed development by reason of its siting on an elevated and visually prominent site to the rear of two established dwellings, the proposed layout and design would result in a visually prominent and obtrusive development, would be seriously injurious to the rural landscape character and visual amenities of the area, would militate against the preservation of the rural environment and would set a precedent for further similar development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area. The proposed development would be at variance with the design objectives and guidelines as set out in the Clare County Development Plan 2017-2023 and the Clare Rural House Design Guide 2005 and would therefore be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

17th April 2020