



An
Bord
Pleanála

Inspector's Report ABP 307573-20.

Development	Dwelling house, entrance, driveway septic tank and percolate area an, all associated site works.
Location	Ballybroghan, Killaloe, Co. Clare.
Planning Authority	Clare County Council.
P, A. Reg. Ref.	19 774.
Applicant	Alison Boyle.
Type of Application	Permission.
Decision	Refuse Permission
Type of Appeal	First Party x Refusal
Appellant	Alison Boyle.
Observer	Ballybroghan Residents Group.
Date of Site Inspection	6 th October, 2020.
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	7
6.3. Observations	7
7.0 Assessment.....	8
8.0 Recommendation.....	11
9.0 Reasons and Considerations.....	12

1.0 Site Location and Description

- 1.1. The site has a stated area of 9,682 square metres and is that of an agricultural field on uplands to the east side of the LT 81941, a narrow lane off a minor road which forms part of the East Clare Way and is off the R463 Scarriff – Killaloe route circa 3.5 kilometres south west of Ogonelloe and circa eight kilometres north west of Killaloe.
- 1.2. The ground level within the site falls eastwards from the road level and there are views across the site lands to Lough Derg. There is house and farmyard with access off the opposite side of the road which serves as a shared access with a second relatively recently constructed house. Access to a further dwelling is located circa 150 metres to the north along the road.
- 1.3. At the time of the inspection the field entrance and part of the frontage to the site had been cleared and taped off and stone walling and trees retained. Ditches and scrubland and grass were evident within the site and along the boundaries.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicate proposals for:
 - A single storey house in the form of a deep plan bungalow with a shallow pitched roof. with a stated floor area of 167.5 square metres and a height of 4.75 metres and a finished floor level of 91.5 M OD which is 8.5 metre lower than the level of the road and between the 90 and 93 m contour and setback eighty metres from the frontage.
 - An access road and gravel surfaced driveway from the west of the site.
 - A packaged wastewater treatment system and polishing filter to the east and downgradient of the house. Water supply is to be from a well located upgradient to the west of the house.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 17th June, 2019 the planning authority decided to refuse permission for the reason set out below:

“ Having regard to the location of the site on a minor road, which is substandard in terms of width and alignment, it is considered that the road is capable of serving local, agricultural traffic only and the Planning Authority considers that the additional traffic movements associated with the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. The initial planning officer report indicates a recommendation for an additional information request, regarding the capacity, condition and safety of the road, works undertaken on the road, visibility on the road between pull in areas on the road, and a revised layout demonstrating satisfactory sight lines at the entrance along with land registry details, the location of the family home of the applicant and possible alternative sites. The report includes an account of several planning applications for single house developments at sites to the west and north west of the application site in addition to details of the prior refusal of permission to the applicant for single house development on the application.
- 3.2.2. In the final report further to review of the further information submission in which a site layout, survey of “passing” points and an account of improvement works, along with details regarding eligibility for house in a rural area is provided, the planning officer indicates satisfaction as to compliance with the rural housing policy but refusal of permission is recommended, due to inability to address the issues relating road capacity and safety.

3.3. Other Technical Reports

- 3.3.1. In the report of the Roads Design Office on the further information submission dated, 2nd June, 2020, reference is made to works undertaken at the site and impediments to the sightlines having regard to a vertical curvature of the road to the south, a tree at the entrance and obstruction by hedgerow for the adjoining property to the north. It is also stated that identified “passing points” are unsuitable and are not under hard standing. It is also stated that a contribution towards the cost of forming pull-ins and their maintenance could be sought from the applicant.

4.0 Planning History

P.A. Reg. Ref. 18-879: Permission was refused, to the applicant, for a house, entrance, driveway and septic tank due to failure to satisfy the eligibility criteria in section 3.11 of the CDP for development in an Area of Special Control and, endangerment of public safety due to traffic hazard having regard to the substandard road alignment and conditions. A subsequent application under P A. Reg. Ref. 19 142 by the applicant was withdrawn prior to determination of a decision.

P. A. Reg. Ref. 99-2472: Permission was refused (to an alternative applicant) for reasons of lack of compliance with the rural housing policy and lack of capacity of the road to accept additional traffic.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Clare County Development Plan, 2017-2023. The site location is within as “Heritage Landscape” as defined in Section 2.1 and in an “Area of Special Control” and An Area under Strong Urban Pressure. for which it is the policy of the planning authority to permit single house development for permanent occupation by persons from the locality and/or working full or part time in rural areas, or who have exceptional health or family circumstances. The relevant policies and eligibility criteria are set out in Section. 3.11.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Michael O'Brien on behalf of the applicant on 13th July, 2020 attached to which are a copy of a six-inch map, on which passing locations are shown along with photographs and details of a traffic count. According to the appeal:

- Fourteen houses, six within the first 350 kilometres (from the eastern end) in which there are seven passing points.
- Residents support the proposed development, but it is suspected that one resident objects and has personal reasons for doing so and that this resulted in an internal roads report being sought and issued on the further information submission.
- The roads report and recommendations were issued without the road conditions and amount of traffic using it having been investigated. It is not agreed that the road cannot safely accept additional traffic movements by one extra house. A traffic count and surveys conducted by the applicant's agent, on 29th June, 2020, (outside the period of the coronavirus restrictions) demonstrate very few trips at a total twenty six in the day in each direction suggesting little likelihood of vehicles in opposite directions at the same time, given an estimated journey time as far as the stie of four minutes. (A survey sheet is provided.)
- Twenty-five passing opportunities are marked on a copy of a map of the road most of which are at entrances and gates but there are two at which the carriageway has sufficient width for two vehicles to pass. For the length of the road as far as the site location this is more than sufficient. (Photographs for each passing point are provided.)
- The submitted six-inch map shows the length of the road and the location of the applicant's family home.
- The applicant is willing to contribute to costs of provision of an additional parking bay along the route.

- In spite of concerns about the condition of the road, permission was granted for two applications for houses further along the road in the last fifteen years. In one of these cases an initial application was unsuccessful, but permission was granted for a second application. (P. A. Reg. Ref. 11/181 and P. A. Reg. Ref. 12/598 refer.) There is no difference, but the condition of the road has been much improved since 2012 due to improvement works completed.
- The reasoning for the decision to refuse permission is unfounded. It is requested that permission be granted.

6.2. Planning Authority Response

6.2.1. In a submission dated 30th July, 2020 received from the planning authority it is stated that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users. It is requested that the reasoning for the refusal of permission attached to the decision should be upheld. It is stated that:

- the subject rural road has poor vertical and horizontal alignment with capacity for local, agricultural traffic only with no scope for additional traffic associated with the proposed development.
- The feasibility of some of the identified pull in points submitted with the appeal is questionable.
- Inter visibility between these points is poor and will lead to reversing which adversely impacts on traffic flow and safety.

6.3. Observations

6.3.1. A submission was received from Liam Agnew on behalf of Ballybroghan Residents Group according to which:

- Permission should be refused because of insufficient capacity and hazardous conditions along the LT 8194 which is a two-kilometre road of various gradients, dips, blind corners, ditches and various bad surface conditions which deteriorate along the two kilometres route to the site. It would take well in excess of the four minutes indicated in the appeal, to complete the route due to the need to stop, reverse and deal with the road conditions and

hazards. The road capacity and the safety of road users should not be further compromised.

- The traffic count results are challenged. There are five households and eight other parties whose horses are grazing lands along the road. In addition, there is considerable non-residential traffic associated with other regular users such as recreational walkers (along the East Clare Way), horse riders, services and deliveries and a creche is due to open.
- As the road is regularly used, if on-coming traffic is encountered, the probability of which is high, one vehicle has to reverse to give way with there being no visibility to a nearest Pull in Point". At the site entrance (1.6 km) the road is collapsing and there are potholes caused by runoff from a point at 1.7 km.
- There is uncertainty as to whether the wastewater treatment systems for two recently constructed developments at 1.7 km and at 1.9 km and this a major concern was the water source is from a local well below these properties.
- The applicant is not known to residents and there is no evidence of social or economic connection with the locality. Her statement that she keeps horses on the site is questionable as nobody is aware of this.

7.0 **Assessment**

7.1. The issue central to the appeal and to the decision to refuse permission is that of the reason for the decision to refuse permission regarding the capacity of the road to serve additional residential development. This matter is first considered below following which, in addition, having regard to the observer submission, the following issues are also considered:

- Visibility at the proposed entrance.
- Eligibility for a house in rural area.
- Water supply and Drainage
- Heritage Landscape and Dwelling Design.
- Environmental Impact Assessment Screening

- Appropriate Assessment.

7.2. Capacity of the road to serve additional residential development.

- 7.2.1. A thorough visual inspection of the road onto which the entrance is proposed for the development, (including 'passing points' identified in the appeal) was undertaken in good weather conditions, during which the road was driven along in both directions three times. The road width, that is the surface between the edges of the verges was estimated at approximately four metres along most of its length, there is variation in gradient, some sections being relatively steep poor alignment with sharp bends, and poor visibility due to the frequency of sharp bends, and obstructions by dense vegetation and some structures along the frontages and hazard due to the presence of ditches.
- 7.2.2. The case made, based on the traffic survey provided to support the applicant's case as to limited existing traffic and as to relative insignificant additional traffic that would be generated by the proposed development is not accepted. The movement numbers recorded appear somewhat conservative and furthermore, it is reasonable, given the location that recreational walkers and tourist/recreational traffic should be taken into consideration due to the proximity to the East Clare walkway and landscape quality and amenity potential in the vicinity of Lough Derg.
- 7.2.3. It is agreed with the Roads Engineer, (who conducted an inspection on behalf of the planning authority) that the 'passing points' identified on the copy of the map provided in the further information submission are not suitable due to lack of hard standing. Several of the identified locations are at field entrances and reversal of a vehicle backwards towards potential passing points would be necessary in order to allow two vehicles to pass due to the limited length of road along which visibility forward or backwards between sharp bends is restricted on account to the frequency of sharp bends and obstructions. Even though attainable speeds are low due to poor standard of the road, it is considered that additional trip generation, adds to obstruction of other road users, including pedestrians due to the substandard nature of the minor road and cannot be justified. As such, additional traffic other than the agricultural traffic for which it is suitable for which its use should be prioritised is not supported due to endangerment of public safety by reason of traffic hazard.

7.2.4. The applicant's willingness, as indicated in the appeal, to contribute towards the cost of construction of a passing bay, (which was suggested in the Roads Engineer's report) is noted. The planning authority in its response to the appeal does not include any comments on this but in concluding remarks on the application, the planning officer states that this option is not appropriate. Such a facility, if it were feasible, would provide for some improvement but it would not be sufficient or effective in overcoming the serious substandard road conditions to allow for favourable consideration of the proposed development.

7.3. Visibility at the proposed entrance

7.3.1. The observations at the inspection of the clearance works at the entrance to the site along with the tree on the south side, stone walling and curvature to the boundary treatment on frontage to the north of the entrance (in third party ownership are similar to those made by the Roads Engineer in his report following his inspection on 2nd June. Although the adequacy of the proposed entrance and visibility from it in each direction are not mentioned within the reason for the decision to refuse permission and are not referred to in the appeal submission and it is considered that they would need to be addressed in the event of favourable consideration of the proposal.

7.4. Eligibility for a house in rural area.

7.4.1. The observer party contends that the applicant is unknown and has no connection with the locality. However, the planning authority's satisfaction that the applicant's circumstances satisfy eligibility criteria is considered reasonable. The applicant has indicated that that the site was gifted to her by her parents, that she resides with them in the family home in Carrowbawn and is employed at Dooradoyle.

7.5. Water Supply and Drainage Arrangements.

7.5.1. The location for the bored well within the site appears to be suitable relative to the proposed drainage arrangement for the site. The observer party has raised concern as to possible contamination due to the location of wastewater treatment systems at recently constructed dwellings circa 1.6- and 1.7-kilometres upslope from the site location. There is no evidence to confirm that these developments would result in risk of contamination of the water supply, but further investigations may be advisable.

7.5.2. Effluent from the proposed development is to be discharged to a packaged waste water treatment system downslope to the east of the footprint of the dwelling to ground water underlying the site as set out in the site characterisation form and site layout plans. Standard conditions for installation and subsequent maintenance are recommended for inclusion if permission is granted.

7.6. Heritage Landscape and Dwelling design.

7.6.1. The dwelling design is low profile, finished in stone with black roof tiles and will be partially screened by indigenous hedgerow. Subject to an appropriate condition to ensure that landscaping within the site on the site frontage and at the entrance is appropriate for the sensitive rural location above and relatively Lough Derg, there is no objection to the proposed development in this regard.

7.7. Environmental Impact Assessment Screening.

7.7.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.8. Appropriate Assessment.

7.8.1. The site is circa 600 metres from the edge of the Slieve Bernagh Bog SAC and 2.3 metres from the Lough Derg (Shannon) SPA. Having regard to the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision be upheld and, that permission be refused based on the following reasons and considerations. It is not so much that there is an additional house, with some additional traffic generation, it is already unsuitable and hazardous.

9.0 Reasons and Considerations

The proposed development would endanger public safety by reason of traffic hazard and obstruction of other road users due to the substandard width and alignment of the minor road serving the site, the capacity of which is sufficient to serve local agricultural traffic only. The proposed development would therefore be contra to the proper planning and sustainable development of the area.

Jane Dennehy

Senior Planning Inspector.

14th October, 2020.