



An
Bord
Pleanála

Inspector's Report ABP 308331-20

Development	Demolition of dwelling, subdivision of site and construct 2 no. dwellings.
Location	Rylanes, Ballingarry, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	20/697
Applicant	Andrew Keogh
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Benjamin & Patricia O'Kelly
Observers	Maureen & Jim Kennedy
Date of Site Inspection	03/12/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.161 hectares, is on the western side of the R518 north of Ballingarry village centre. It is within the 50kph speed limit with a solid white line along the stretch of road in front of the site.

The site is narrow and rectangular in shape with falls from south to north. There is a two storey dwelling with single storey side and rear extensions in the centre with the areas to either side providing garden space. That to the north of the dwelling is accessed via a ramp. Storage sheds ancillary to the dwelling abut the northern most boundary. The roadside boundary is delineated by a decorative wall in front of the dwelling and a hedgerow along the remainder. A hedgerow delineates the rear boundary.

The site is directly opposite both an entrance to a farm yard and single storey dwellings, with a small housing scheme to the north of same again. There is a footpath from the village centre as far as this residential scheme.

2.0 Proposed Development

The proposal entails:

- Demolition of existing dwelling.
- Construct 2 no. two storey dwellings with a shared access in the centre of the site. Each dwelling is to be served by two car parking spaces and private amenity space to the side.
- Connection to public sewerage scheme and water supply.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 11 conditions. Of note:

Condition 8: Sightline requirements, all stationary objects such as overhead services poles to be setback behind the sightline envelope. Retention of roadside boundary.

Condition 10: No lighting permitted within the curtilage at the roadside entrance or on the gate piers.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Area Planner considers the style and size of the proposed dwellings to be acceptable. Grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Area Engineer considers the sightlines to be acceptable. The roadside boundary should be retained save for that required to facilitate construction and sight lines. Surface water disposal measures to be put in place.

Environmental Technician recommends further information seeking an asbestos survey. Condition detailed should permission be granted.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to traffic safety, design, impact on amenities of adjoining property, adequacy of effluent treatment system and demolition of dwelling which forms part of curtilage of a protected structure.

4.0 Planning History

I am not aware of any previous planning applications on the site.

5.0 Policy Context

5.1. Development Plan

Limerick County Development Plan 2010-2016 (as extended)

Ballingarry is identified as a Tier 4 town/village with the surrounding area designated as being a Strong Agricultural Base.

Objective SS O1: Scale of development within tiers 2-6

To ensure that the scale of new housing developments, both individually and cumulatively, shall be in proportion to the pattern and grain of existing development and to ensure that the expansion of towns and villages shall be in the form of a number of well integrated sites within and around the core area rather than focusing on rapid growth driven by one very large site. In this regard, and without prejudice to other development plan policies or development management best practices, there will be a positive presumption for housing developments of the following scale or smaller within each tier, as appropriate:

Tiers 2– 4: Generally no one proposal for residential development shall increase the existing housing stock by more than 10-15% within the lifetime of the plan.

Objective SS O2: Design of development within tiers 2-6

The design, layout and character of new development shall relate to the local character and heritage of existing towns and villages and shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness of the settlement.

Objective SS O4: Sequential growth of settlements

Where no specific zoning is identified for a settlement new developments shall be within or contiguous to the core identified for each settlement, thus avoiding “leap frogging” of development and shall be designed so as to consolidate existing villages /towns and provide for the organic and sequential growth of the settlement. Infill and brownfield sites will be the preferred location for new development.

5.2. **Environmental Impact Assessment**

Having regard to the characteristics of the site and the nature and scale of the proposed development 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.

5.3. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 3rd Party appeal by Benjamin and Patricia O'Kelly is accompanied by supporting details and photographs. They reside in a dwelling opposite the site. The appeal submission can be summarised as follows:

- The applicant is not the site owner. Written consent from the owner does not accompany the application. The validity of the application is questioned.
- The dwelling opposite their dwelling will result in overshadowing.
- The proposal will give rise to a traffic hazard. The fact that the site is within the 50kph speed limit should not be used to justify the decision.
- The dwelling design would be out of character in the area. Clarity is required as to what constitutes local stone as per condition 5 attached to the planning authority's decision.
- Should the site be sold how will the requirements in terms of retention of roadside boundary as required by condition be enforced.

6.2. **Applicant Response**

None (withdrawn)

6.3. **Planning Authority Response**

None

6.4. **Observations**

The observation from Maureen & Jim Kennedy raises concerns about traffic safety. The area for car parking and manoeuvres is inadequate and may result in vehicles having to reverse onto the road. The sightlines towards the village are inadequate.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Suitability of Design and Amenities of Adjoining Property
- Access and Traffic
- Other Issues
- Appropriate Assessment

7.1. **Suitability of Design and Amenities of Adjoining Property**

The site is on the outskirts and within the 50kph speed limit of Ballingarry village which is identified as a Tier 4 settlement in the current County Development Plan with its rural catchment designated as being a Strong Agricultural Base. With no specific zoning identified for the settlement I consider that the proposal for 2 no. dwellings on a site with a long established residential use can be seen to accord with plan objective SS O4 which states that brownfield sites will be the preferred location for new development.

The immediate vicinity of the site is characterised by a mix of dwelling designs with those opposite and within the small estate further north being single storey of varying designs. There is a dormer dwelling bounding the site to the north with a two storey dwelling opposite same, whilst that existing on site which is to be demolished to facilitate the development is also two storey, albeit traditional in design. The site is not within an area designated as being of visual amenity with the sloping agricultural lands to the rear forming its back drop. I submit that in the absence of an overriding

architectural style in the area the contemporary design as proposed would be acceptable and would not detract from the character of the area.

The proposed layout entails the dwellings to be constructed within the side gardens, with the area on which the existing dwelling stands to be used for parking. As a consequence House No.2 will face onto the appellant's property. While the building line of the dwellings will be forward of that existing, a setback of 4 metres to be retained to the roadside boundary. Coupled with the public road and footpaths in between and the setback of the dwelling directly opposite there will be separation of in the region of 26 metres between the front elevations. I submit that as a consequence of this setback, coupled with the relatively low ridge height of the dwellings at 7.364 metres, no issues arising from overshadowing are anticipated. In addition due to the intervening public realm loss of privacy is not an issue.

The requirements in terms of external finishes and use of local stone as per condition 5 attached to the planning authority's decision is a standard requirement. The applicant will be required to secure the written agreement of the planning authority as to the preferred finishes prior to commencement of development.

On balance, therefore, I consider that the proposed development provides for a considered redevelopment of the site without undue impacts on the amenities of adjoining property and which would be in accordance with development plan objective SS 02 in that it would not detract from the existing village character.

7.2. Access and Traffic

The site is within the 50 kph speed limit of the village with a solid white line precluding overtaking along the road frontage. A footpath extends as far as the small residential estate on the opposite side of the road. The road is relatively well trafficked and I noted that the speed limit was breached by vehicles travelling in both directions. The enforcement of the speed limit is a matter for the relevant policing authority.

At the outset I do not consider that the increase in the number of dwellings on the site from 1 to 2 would give rise to concerns in terms of a material increase in vehicular movements. A shared access arrangement in the same position as the existing access serving the site is proposed but is to be recessed from the roadside boundary. The necessary sight lines of 70 metres are attainable subject to the

maintenance of the roadside hedgerow which is within the applicant's control, and removal of an existing Eircom pole. Correspondence with the utility provider on this matter accompanies the application. I consider that the recessed entrance and car parking area provided for each dwelling is more than adequate to ensure that vehicles do not have to reverse onto the road. I note that the Area Engineer did not express any reservations about the proposed access arrangements and parking provision.

I therefore consider that the proposed development would not give rise to a traffic hazard arising from increased or conflicting vehicular movements.

7.3. Other Issues

The site is serviced with connection to the public sewerage scheme and water supply. Irish Water has no objection to the proposal subject to conditions.

The appellants have contested that the applicant is not the site owner and that the application is not accompanied by a letter of consent from same. Land Registry details are provided in support on which the owner is stated to Edward Keogh. The applicant, Andrew Keogh, is stated to be the site owner on the planning application form (question 10).

The appellant, whilst raising this issue, does not contest to be the site owner but references a 3rd party. The said referenced party has not made a submission on the application or appeal. I submit that the issue of land ownership is not a matter for resolution through the planning process. On balance I accept the applicant's bona fides. I recommend that he should be advised of the requirements of section 34 (13) of the Planning and Development Act 2000, as amended, in that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

7.4. Appropriate Assessment

The nearest designated sites are:

1. Askeaton Fen Complex SAC (site code 002279) c. 10 km to the north. The qualifying interests are Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* and Alkaline fens

2. Tory Hill SAC (site code 00439) c. 14 km to the north-east. The qualifying interests are Semi-natural dry grasslands and scrubland facies on calcareous substrates, Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* and Alkaline fens
3. Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161) c. 15 km to the west. The qualifying interest is Hen Harrier.

7.4.1. Detailed conservation objectives for the former two have been prepared with generic objectives for the latter, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

Assessment

- 7.4.2. The site is not within or near any Natura 2000 site. No direct impacts will arise.
- 7.4.3. No source/ pathway/receptor route between this site and the designated sites exist. The site, on which there is a long established dwelling, is located on serviced land within the boundary of Ballingarry village.

Screening Statement and Conclusions

- 7.4.4. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out screening for appropriate assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effects on European Site Nos. 002279, 00439 and 004161 or any other European site, in view of the sites' conservation objectives and appropriate assessment (and submission of a NIS) is not therefore required.
- 7.4.5. The determination is based on the location and existing use of the serviced site and separation distance to the designated sites.
- 7.4.6. In making this screening determination no account has been taken of any measures intended to avoid or reduce the potentially harmful effects of the project on the European Sites.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

3. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site

Reason: In the interests of visual amenity.

5.
 - (a) The existing front boundary hedge shall be retained save for that necessary to provide for the entrance to the site and achievement of sightlines.
 - (b) The entrance gate shall be recessed a minimum of 4.5 metres from the road edge having wing walls splayed at a 45 degree angle to the public road.

Reason: In the interest of visual amenity and traffic safety.

6. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

7. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in

accordance with the 'Best Practice Guidelines on the Preparation of Waste Management Plan for Construction and Demolition Projects', published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and in particular recyclable materials, in the interest of protecting the environment.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2020