



An
Bord
Pleanála

Inspector's Report

ABP-309218-20

Development	To build a dwelling house, garage, install a wastewater treatment system & all associated site and ancillary works.
Location	Cloghaundine, Liscannor, Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	20730
Applicant(s)	Trisha & Kevin Scales
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Garrett Taylor & Gillian Foley
Date of Site Inspection	13 th April 2021
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.53 hectares, is located in the townland of Cloghaundine, approximately 1.5km from Liscannor and a short distance north of Liscannor Bay. The appeal is a field area, currently in agricultural use, which is accessed from an existing laneway running on a north south axis from the R478 to the north of the site. Levels on site fall in a southerly direction. Adjoining uses include a single-storey dwelling on the site immediately to the north and agricultural lands to the south, and west.

2.0 Proposed Development

- 2.1. Permission is sought for a dwelling house, garage, installation of wastewater treatment system and all associated site works. The proposed dwelling is single-storey featuring a part flat roof/pitched roof and ridge height of 4.5m the dwelling has a floor area of 265sqm. It is proposed to construct a detached garage.
- 2.2. On the 02nd of December 2020 unsolicited further information was received by Clare County Council that included a revised site layout plan with the dwelling revised in position and moved further east on site.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 11 conditions, of note are the following conditions...

Condition no. 1: The condition requires compliance with drawings submitted including on 27th November 2020 and 02nd of December 2020.

Condition no. 3(a): The dwelling is to be sited in accordance with the layout submitted don the 02nd of December 2020.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (02/12/20): The proposal was considered to be in compliance with County Development Plan settlement strategy/rural housing policy, acceptable in regards to design, scale and visual amenities, acceptable in the context of adjoining amenities, public health and traffic safety. A grant of permission was recommended subject to the conditions outlined above.

3.2.2. Other Technical Reports

Irish Water (09/10/20) No objection.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 None.

4.0 Planning History

ABP-308867-20: Leave to appeal granted to Garrett Taylor & Gillian Foley in relation to the permission granted to Trish and Kevin Scales under ref no. 20/730.

On the landholding it is taken from...

06/2347: Permission granted for a slatted shed.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Clare County Development Plan 2017-2023.

The appeal site is in a rural area designated as experiencing “Strong Urban Pressure” and is located in the Western Corridor Working landscape.

CDP 3.11 New Single Houses in the Countryside within the ‘Areas of Special Control’

It is an objective of the Development Plan:

A) In the parts of the countryside within the ‘Areas of Special Control’ i.e.:

- Areas under Strong Urban Pressure (See chapter 17);
- Heritage Landscapes (See Chapter 13);
- Sites accessed from Scenic Routes (See Chapter 13 and Appendix 5).

To permit a new single house for the permanent occupation of an applicant who falls within one of the Categories A or B or C below and meets the necessary criteria.

B) To ensure compliance with all relevant legislation as outlined in Objective CDP2.1 and have regard to the County Clare House Design Guide, in particular with respect to siting and boundary treatment. Note: Where the proposed site is accessed from a National route or certain Regional routes, the proposal must in addition to compliance with this objective, also be subject to compliance with objectives CDP8.4 and 8.5 as set out in Chapter 8.

Heritage Landscape

The subject site is within a Heritage Landscape. Therefore Objective 13.5 is applicable.

Objective 13.5

It is an objective of the Development Plan to require that all proposed developments in Heritage Landscapes, demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal from site selection through to details of siting & design. All other relevant provisions of the

Development Plan must be complied with. All proposed developments in these areas will be required to demonstrate:

- (i) The sites have been selected to avoid visually prominent locations.
- (ii) That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.
- (iii) That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

CPP 3.13 New Single Houses in the Countryside

It is an objective of the Development Plan: In the case where there is a grouping of rural houses, the development of a small gap site, sufficient to accommodate only one house, within an otherwise substantial and continuously built-up frontage, will be permitted provided it respects the existing development pattern along the frontage in terms of size, scale, siting, plot size and meets normal site suitability requirements. Dwellings constructed on infill sites of this nature must be for the permanent occupation of the applicant. The siting of new dwellings in the countryside so as to deliberately create a gap site of this nature will not be permitted. In circumstances where these sites occur in 'Areas of Special Control' the provisions of Objective CDP3.11 (i.e. Local Need requirement) will not apply.

5.2 National Policy

5.2.1 Sustainable Rural Housing Guidelines (2005):

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

The appeal site is located in an area identified as being a Structurally Weak Area (NSS Rural Area Types).

Structurally weaker rural areas. These areas will exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth.

National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

5.3 Natural Heritage Designations

5.3.1 None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to nature and scale of the development, which is the construction of a dwelling, wastewater treatment system and associated site 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Alex Russell Associates on behalf of Garrett Taylor & Gillian Foley, Cloghaundine Cottage, Clahane, Liscannor, Co. Clare. The grounds of appeal are as follows...

- The appellants dwelling is located immediately to the north of the site. The appellants did not object to the development originally proposed however discovered that unsolicited information was received altering the location of the proposed dwelling on site and there was a lack of opportunity to make public observation on such alterations, which are significant changes in nature. The development granted provides for the dwelling in a revised position and such is conditioned under condition no. 3a.
- The southern elevation of the appellants' dwelling has a significant degree of glazing as well as an important amenity area along the southern elevation. The permitted layout and changes made by way of unsolicited further information bring the dwelling closer to the appellants' dwelling where it will result in overlooking and negatively impact the existing outlook and residential amenities enjoyed by the appellants.
- It is suggested that the dwelling if permitted be located as per the site layout originally submitted with the dwelling located 10m to the west of the location in which it was granted and specified under condition no. 3(a).

6.2. Applicant Response

6.2.1 Response by the applicants, Trisha & Kevin Scales,

- The applicants outline the background to the case including the fact the site is family land in close proximity of Trisha Scales's family home. The original location of the dwelling was dictated by layout based on most favourable ground conditions from wastewater and regard to the appellants' property to the north in terms of privacy.

- The revisions made were prompted by a request from the Council's Planning department to relocate the dwelling and a revised layout was submitted by way of unsolicited further information.
- The applicants note they are more than happy to construct the dwelling in the original location proposed however consider that the approved location is sufficiently distant from the appellants' property so as to not impact on privacy. The applicants have submitted site layouts including that originally proposed and that approved as well as photomontages showing the dwelling in the original position relative to existing dwellings in the vicinity.

6.3. Planning Authority Response

6.3.1 Response by Clare County Council

- The PA is of the view that the location of the dwelling as per the grant of permission and the site layout submitted on the 02nd of December 2020 would assist in the assimilation of the dwelling, as it would be closer to the existing built structures and would help read as a cluster of buildings in the landscape.

6.4 Further Responses

6.4.1 Response by the appellants, Garrett Taylor & Gillian Foley, Cloghaundine Cottage, Clahane, Liscannor, Co. Clare.

- The appellants have suggested an alternative location for the dwelling, which is to relocate it further east on site and closer to the road and that such would achieve the aims of the Council to assimilate the dwelling into a cluster.

6.4.2 Further response by the applicants, Trisha & Kevin Scales.

- The response indicates that the alternative location put suggested by the appellants would impact on the privacy of both applicants and appellants and not address the issues raised.

- The response states that applicants consulted with their neighbours prior to lodging the applicant and they were satisfied with the original location of the dwelling. The reasoning for the original location include maximising daylight, location close to the applicants' family home as well as being determined by the best condition for wastewater treatment is reiterated.
- The applicants reiterate the background to the case and reasons for relocating the dwelling as per the PA's request and that such was done to still have regard to the appellants' amenities. It is noted that both the applicants and appellants favour the original location proposed.
- The applicants note that the proposed or approved location would not compromise the amenities of the appellants'. The applicants would be satisfied with the revised location approved if necessary and consider that it would be acceptable in the context of adjoining amenities.

7.0 Assessment

7.1. At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 1 and 3(a)

7.3 Condition no. 1 and 3(a)

7.3.1 The original layout proposed for the dwelling was located 10m further to the west on site. The appellants' dwelling is located to the north of the site has a southerly aspect with a significant level of glazing with excellent views towards the coast and an amenity space between the southern elevation and the boundary wall with the appeal site. The appellants did not make a submission in relation to the proposed development. During the course of the application unsolicited information was

received by the Council on the 02nd of December 2020 in which the footprint of the dwelling was relocated 10m further to the east on site. This information was not deemed to be significant or meriting advertisement and permission was granted with the development to be laid out in accordance with the layout submitted on the 02nd of December. The appellants were granted leave to appeal this grant of permission. I would be of the view that change in layout is a significant change and should have been advertised and subject to revised public notices to ensure adequate public scrutiny. Condition no. 1 refers to the revised site layout and condition no. 3(a) also confirms that the proposal is to be constructed in accordance with the revised site layout received as unsolicited information.

7.3.2 The location of the dwelling is the only issue raised in the appeal. The original position of the dwelling was further 10m further to the west and further away from the southern outlook of the appellants dwellings. I would question the logic for the revised position of the dwelling and would consider that the difference between the original location of the dwelling on site and the approved location does not have a significant impact in terms of improving the overall quality of the development of its physical and visual impact. The applicants clearly proposed the dwelling in its original position to avoid interfering with the southern outlook of the appellants' property, with their dwelling having a significant level of glazing on the southern elevation and an amenity space that benefits from attractive views south.

7.3.3 I would be of the view that the revised position of the dwelling approved is still sufficiently offset from the appellants property so as to have no significant physical or adverse impact in terms of outlook or privacy and I would note that at the rear building line of the appellants dwellings there is a hedge line that obscure views south anyway and the proposed dwelling does not project beyond such. Notwithstanding such, I am of the view that as the original layout is the preferred option of the applicants, which they sought in the first instance and also an arrangement that the appellants had no issue with, such should be implemented. As stated earlier I do not consider there is strong logic for moving the dwelling 10m to the east and this does not significant improve or change the nature, scale and overall impact of the proposed development.

7.3.4 The original position of the proposed development would be acceptable in the context of the visual amenities of the area. The dwelling is low profile in design and is unlikely to be prominent or visually obtrusive at this location with intervening vegetation, dwellings and the change in levels falling south meaning views of the dwelling from any of the public roads in the vicinity would not be prominent. I am of the view that any of alterations proposed by way of the conditions attached or suggested by the applicant would make no significant difference to the visual impact of the proposal to merit its change in location from its original position. The proposal is compliant with Development Plan policy regarding development in Heritage Landscapes and the applicants comply with Rural Housing policy (criteria A).

7.3.5 I would recommend that condition no. 1 be amended and that such should refer to compliance with the documents and drawings submitted on 09th day of October 2020. I would recommend that condition no. 3(a) be omitted.

8.0 Decision

8.1 Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND Condition No 1 as follows and OMIT Condition no. 3(a), and the reasons therefor.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 09th day of October 2020, 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.

10.0 Reasons and Considerations

1. Having regard to the design, scale and site layout taken in conjunction with the pattern of development on adjoining sites, it is considered that the original location of the dwelling as proposed is satisfactory in the context of the visual amenities of the area and in the context of adjoining amenities and that the revised location moving the dwelling 10m east does not have a materially beneficial impact in relation to design, scale and visual amenity. It is considered that the conditions requiring relocation of the dwelling over that originally proposed are unnecessary and that the original proposed would be in accordance with the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

21st May 2021