



An
Bord
Pleanála

Inspector's Report ABP-311062-21

Development	Construction of a house, garage greenhouse, wastewater treatment unit, polishing filter, percolation area, new site vehicular entrance and all associated site works.
Location	Lacorroe, Feakle, Co Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21163
Applicant(s)	Patrick Traegy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Virginia Brown & Julia Walters
Date of Site Inspection	11 th October 2021
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 3.56 hectares, is located to the north west of Scarriff and west of Lough Derg. The appeal site is accessed off the L-80581. The appeal site is on southern side of an existing access road that is narrow and unsurfaced and currently serving agricultural lands. The appeal site is part of existing agricultural lands. The nearest dwelling is located to the east of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a new dwelling house which is single-storey and part two-storey, with ground floor garage attached to the dwelling, externally accessed greenhouse, proposed wastewater treatment unit with a polishing filter and percolation area, new site vehicular entrance and all associated site works. The proposed dwelling has a floor area of 308.22sqm and a ridge height of 6.124m. The dwelling features a pitched roof with external finishes consisting mainly of white render and dark grey roof slates.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 12 conditions. Of note is the following condition...

Condition no. 3: No development shall commence on site unless and until the access road has been upgraded to the satisfaction of the Council with details to be submitted and agreed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (20/04/21): Further information required including submission of proposals for upgrade of access road, clarification regarding the trial hole test, details regarding plans for the full extent of the site/landscaping proposals and details regarding measures to prevent ponding/flooding adjacent the entrance.

Planning Report (29/07/21): The proposed development was considered to be in accordance with Development Plan policy, acceptable in the context of visual amenity of the area, the amenities of adjoining properties, traffic impact and public health. A grant of permission was recommended based on the conditions outlined above.

3.2.2. Other Technical Reports

Environment Section (01/04/21): Further information requiring including clarification regarding the results of a trial hole test post 48hrs from the opening of the trial hole.

Environment Section (12/07/21): Conditions recommended in relation to wastewater treatment.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Submission by Virginia Brown & Julia Walters, Suiamhneas, Lecarroe, Feakle, Co. Clare. The issues raised include...

- Traffic safety, standard/condition of access, impact on adjoin residential amenity and visual impact.

4.0 Planning History

No planning history.

ABP-311434: Current appeal concerning permission to construct a dwelling on a site located further to the west and on the north side of the access laneway serving the site.

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 Settled Landscape and is outside of an Area of Special Control.

CDP 3.12 Development Plan Objective: New Single Houses in the Countryside outside the 'Areas of Special Control'

It is an objective of the Development Plan:

Within the parts of the countryside outside of the 'Areas of Special Control' i.e.:

- Outside of the Areas under Strong Urban Pressure;
- Outside of Heritage Landscapes;
- Not accessed from a Scenic Route.

To permit an application for a single house by persons who seek a dwelling as their principal private residence and will, therefore, contribute to the social and economic well being of the area.

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 objectives CDP8.4 and CDP8.5 as set out in Chapter 8. All development proposals must be in compliance with the requirements of the Habitats Directive.

CDP 13.2 Development Plan Objective: Settled Landscapes

It is an objective of the Development Plan:

To permit development in areas designated as 'settled landscapes' that sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts;
- Regard being given to avoiding intrusions on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:

- That the site has been selected to avoid visually prominent locations;
- That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads;
- That design for buildings and structures reduce visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.

5.2. National Policy

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.

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.

The appeal site is located in Structurally Weak Area based on the Map 1: Indicative Outline of NSS Rural Area Types.

5.3. Natural Heritage Designations

Slieve Aughty Mountains SPA (004168), 0.4km from the site.

5.4. EIA Screening

5.4.1 The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the development, which is a new dwelling and associated works, the absence of features of ecological importance within the site, I conclude that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Virginia Browne & Julia Walters, Suiamhneas, Lecarroe, Feakle, Co. Clare.

- The appellants reside in the existing dwelling located to the north east of the appeal site.
- There are drainage issues with ponding of water on the site at the location of driveway.

- The dwelling would be highly visible in the surrounding area due to the open nature of the site and lack of screening.
- The appeal site is large and wraps around the appellants' property with concerns regarding loss of privacy and increased activity on site impacting existing residential amenity. The appellant describe the development as backland development.
- The existing access road is substandard in width and alignment, surface and drainage. The impact of headlights shining into the appellants' property is noted and sightlines are restricted along the access road.

6.2. Applicant Response

6.2.1 Response by the applicant Patrick Traecy.

- The issue of drainage was dealt with in the further information submission. The proposal will be designed to alleviate such.
- The dwelling is sufficiently separated from the appellants' dwelling and the overall scale of the dwelling is modest and impact on visual amenity would be acceptable as well as being in accordance with the Clare Rural House Design Guide.
- The issue concerning the road and upgrade was resolved in the further information response with the applicant consulting with the Area Engineer.

6.3. Planning Authority Response

6.3.1 Response by Clare County Council.

- The upgrade works will be designed by the Council and carried out by the applicant to the Council's satisfaction.
- The majority of the site is to remain in agricultural use with no change adjoining the appellants' dwelling.
- There is significant separation between the proposed dwelling and the appellants' dwelling.

7.0 Assessment

- 7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development/rural housing policy

Design and layout

Access laneway/traffic impact

Wastewater treatment

- 7.2. Principle of the proposed development/rural housing policy:

- 7.2.1 The appeal site is located in a rural area. The appeal site is in a rural area designated as Settled Landscape and is outside of an Area of Special Control. The criteria for applicants for rural housing in this location is set out under Section 13.2 of the County Development (outlined above). The applicant is returning to the area and is originally from the Scarriff Area and the site is taken from family farming lands. The applicant was adjudged by the Council to comply with rural policy under the County Development Plan and based on the information this appears to be the case. In relation the National Framework Plan the site is located in an area defined as being a Structurally Weak Area based on the Sustainable Rural Housing Guideline (2005).

- 7.3 Design and layout:

- 7.3.1 The appellants raise concerns regarding the visual impact of the proposal and layout of the development in relation to physical impact on their residential amenity relating to the nature of activity on the site and privacy issues. In relation to visual impact the site is in an upland area with an open aspect to the south of the site. The dwelling is a dormer style dwelling with a ridge height of 6.024m. I would consider that the overall design scale of the dwellings, and its siting on site, has adequate regard to the amenities of the area. The dwelling is modest in height, and would be consistent

with the principles of the Clare County Design Guide. I am satisfied that the dwelling is unlikely to be a prominent or excessively obtrusive element in the wider area and that there is existing vegetation on site that provides a backdrop to the dwelling as well as additional landscaping being proposed.

7.3.2 In relation to impact on the adjoining property to the east, the dwelling itself is located a significant distance away from the existing dwelling and its associated boundary. This level of separation is more than sufficient to ensure the proposed dwelling would have a negligible impact in terms of privacy, visibility or general disturbance. The appellants take issue with the size of the site and question the nature of activities proposed and the potential for activity or disturbance adjoining the boundary with their dwelling. Based on the plans submitted the areas adjacent the appellants' property are to remain as an open area, what appears to be a grassed area with no structures proposed in close proximity to the boundary. I am satisfied with the level of detail provided and that the proposal for a dwelling at this location would not be injurious to the residential amenities of the adjoining property.

7.4 Access laneway/traffic impact:

7.4.1 The appeal site is located off the L-80581 according to the Planning report. It is not clear whether the section the site is located off is a public road or is private laneway. The site is located off a section of laneway that is narrow and unsurfaced and ends in dead end further to the west. The laneway currently serves one dwelling located to the east and agricultural lands. The applicants were requested for proposals to upgrade the section of road. In response it was indicated that the applicant would make a contribution to the upgrading of the road. Permission was granted with condition no. 3 requiring details of road upgrades proposed and such to be implemented prior to commencement or occupation.

7.4.2 The section of road the appeal site is serviced by is substandard in terms of width, alignment and surface is completely unsuitable to cater for additional traffic as proposed. The indication is that it is a public road and that the Planning report

associated with the application indicates that the options are a contribution towards the cost of upgrading or a condition that the applicant carry out the upgrade works including realignment, resurfacing and potential widening. It is indicated that there are no plans to carry out works on this road. The applicants' further information indicate the applicant is willing to contribute towards the upgrade of the road and the Planning Authority have conditioned that the upgrades are to be carried out by the applicant.

7.4.3 As it stands the existing road is substandard in terms of width, alignment and access and completely unsuitable for additional traffic generation and would constitute a traffic hazard. I do not consider that there is clarity in terms of plans to alleviate the concerns regarding the quality of access and condition of the road and would consider that the level of works required to upgrade the road to the necessary condition would be significant. I would consider that the existing public road serving the site is inadequate in alignment and condition and is completely unsuitable for additional traffic movements. The proposed development would constitute a traffic hazard and cause obstruction to other road users. There is a significant lack of clarity regarding the nature and feasibility of upgrading the road to the necessary standard and the nature of the proposal would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not propose. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.5 Wastewater Treatment:

7.5.1 The dwelling entails installation of a proprietary wastewater treatment system. Site characterisation was carried out including trial hole and percolation tests. The trial hole test indicated bedrock being at a level of 1.5m. The percolation test result for T tests by the standard method for deep subsoils and/or water table and P tests by the standard method for shallow soil/subsoils and/or water table, indicate percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The

test results indicate percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries).

7.6 Drainage/flooding issues:

7.6.1 The appellants state that there are flooding issues on the appeal site with ponding of water near the entrance to the site. Given the location of the site in an upland area it is clear that the issue here is not a flooding issue but a drainage issue. I would be of the view that it is likely that this is an issue that can remedied with improved drainage and that it is in applicants interest to do so. I do not consider that this is an issue would merit precluding the proposed development.

8.0 Recommendation

8.1. I recommend refusal based on the following reason.

9.0 Reasons and Considerations

1. The existing road serving the site is seriously inadequate in width, alignment and condition and is completely unsuitable for additional traffic movements likely to be generated by the proposed development. The proposed development would constitute a traffic hazard and cause obstruction to other road users. In addition there is a lack of clarity regarding the nature of works and feasibility of upgrading the road to the necessary standard with the proposal leading to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Senior Planning Inspector