



An
Bord
Pleanála

Inspector's Report ABP 311209-21.

Development	A change of house location on site from that granted under planning reference 17/410 which is for a new two-storey house with site entrance and effluent treatment system.
Location	Toberagarriff, Murroe, Co. Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	21797
Applicant	Angeline Sheehan
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	Dr. Yvonne & James Mannion
Observers	None
Date of Site Inspection	19/1/2022
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site is located on lands at Toberagarriff, Murroe, Co. Limerick. It is situated circa 2km to the west of the Murroe Village. Limerick City centre is located circa 14.5km to the west. The lands in the vicinity are predominantly agricultural in character with sporadic housing along the surrounding roads.
- 1.2. The site has a stated area of 0.228 hectares it is roughly rectangular in shape. It has frontage of 32m onto the Regional Road R506. The appellants property a two-storey detached dwelling is situated circa 32m to the east of the site boundary.

2.0 Proposed Development

- 2.1. Permission is sought for a change of house location on site from that granted under planning reference 17/410 which is for a new two-storey house with site entrance and effluent treatment system.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was granted subject to 3 no. conditions. Conditions no. 3 specifies that; "This permission is subject to the terms of the governing permission, Planning Reference No. -17/410 except where departure from the terms of that permission, in respect of the change of house location on the site, is hereby authorised by this permission. This permission and the governing permission expires on the 11/12/2022.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- In respect of the application, it is proposed to revise the siting of the permitted dwelling on site. The report stated that the principle of the development, housing need, house design, landscaping, access and sightlines, surface

water disposal, wastewater treatment and development contributions have been assessed under the extant permission ref: 17/410. The proposal would increase the setback of the permitted dwelling a further 8m into the site. It is noted that the finished floor level of the dwelling will remain as permitted under Reg Ref: 17/410. Condition no. 12 of Reg. Ref: 17/410 requires screen planting along all site boundaries consisting of native broadleaf trees. As detailed in the report of the Planning Authority was therefore satisfied that screening will be provided with the neighbouring property.

3.2.2. Other Technical Reports

- No further reports.

3.3. Prescribed Bodies

- No reports submitted.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received one submission/observation in relation to the application. The issues raised are similar to those set out in the appeal.

4.0 Planning History

Site

PA Reg. Ref. 17/410 – Permission was granted for the construction of a new two storey house complete with a new site entrance and effluent treatment system.

Adjacent

PA Reg. Ref. 17/369 – Permission was granted for alterations to elevations and site layout of already granted planning permission 09/1553 & 15/7031, which consists of the demolition of existing dwelling house and the construction of 1 no. dwelling house, front boundary treatment, front entrance & driveway, effluent treatment system and all ancillary site works.

PA Reg. Ref. 15/7031 – Permission was granted for the extension of permission 09/1553 for the demolition of existing dwelling house and the construction of 1 no.

dwelling house, front boundary treatment, front entrance & driveway, effluent treatment system and all ancillary site works.

PA Reg. Ref. 09/1553 – Permission was granted for the demolition of existing dwelling house and the construction of 1 no. dwelling house, front boundary treatment, front entrance & driveway, effluent treatment system and all ancillary site works.

5.0 Policy Context

5.1. Limerick County Development Plan 2010-2016 (as extended)

- 5.1.1. The site is located in an area of unzoned land. Map 3.2 'Rural Settlement Strategy' identifies the site as being located in an 'Area under Strong Urban Influence'. These are part of the rural areas within commuting distance of Limerick City and Environs are experiencing pressure from the development of urban generated housing in the open countryside. It is an objective of Policy RS O1 to permit single houses in the area under strong urban influence to facilitate those with a genuine rural housing need in the area.

5.2. Natural Heritage Designations

- 5.2.1. Lower River Shannon SAC (Site Code 002165) is located 1.42km to the south of the site.
- 5.2.2. Glenstal Wood SAC (Site Code 001432) is located 3.1km to the north-east of the site.
- 5.2.3. Slievefelim to Silvermines Mountains SPA (Site Code 004165) is located 3.5km to the north-east of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive 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. An EIA -

Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Dr Yvonne Mannion and James Mannion. The issues raised are as follows;

- The appellants object to the proposed change of house location on the site granted under PA Reg. Ref. 17/410 on the basis that they wish to protect the privacy at the rear of their house.
- It is stated in the appeal that appellants consider that their right to protect their privacy takes precedence over an application to protect someone's privacy which does not exist. The appeal refers to the current ownership of the site which it states as per the Land Registry on the 3/7/2021 was Everyday Finance.
- The appellants own the adjoining site and house to the subject site to the east.
- The proposed change of house location on the site would involve the relocation of the dwelling 8m back on site from the permitted location. The appellants state that the dwelling would be in direct alignment with their home.
- The appellants have raised concern in respect of the validity of the application made to the Planning Authority under PA Reg. Ref. 21/797. It is set out in the appeal that the application did not include house plans and elevations and that there is no on-site wastewater treatment assessment with the application.
- The appellants state that the reason they did not object at the time the application was made under Reg. Ref. 17/410 was because the house was not directly inline with their dwelling and therefore would impact upon privacy.

6.2. Applicant Response

A first party response to the appeal has been submitted by Joseph Barry, Architectural Technician & Surveyor on behalf of the applicant Angeline Sheehan. The issues raised are as follows;

- The applicant fully acknowledges the appellant's right to protect their privacy. Although they do not agree that a right to privacy for an existing house takes precedence over that for a proposed house.
- It is noted that conditions attached the permission granted for the appellants' dwelling under Reg. Ref. 09/1553 referred to landscaping and planting. Condition no. 10 stated that "screen planting shall be provided along the western boundary of the site within three months of the commencement of works on site. The planting shall consist of native broadleaf species planted at suitable intervals to provide a protective screen from the public road. The planting shall be staked and tied and adequately maintained. All unsuccessful or damaged trees shall be replaced without delay."
- Condition no. 11. Stated "The proposed development shall be screened from the public road by the planting of evergreen and broad-leaved trees, planted at suitable intervals to provide an effective visual screen. At least 20. no trees shall also be planted in inform groupings around front, rear, sides of the house to reduce visual impact of the proposed dwelling. Deciduous trees shall be planted at not less than 2 metres high and evergreen species planted not more than 900mm high. The species planted may include trees from the following list: Mountain ash, birch, cedar, willow, sycamore, larch, spruce, pine oak, pine, oak, hawthorn, holly, hazel, beech, alder (Leylandii trees shall not be permitted)."
- It is stated that a commencement notice was issued to the Planning Authority on the 28th of September 2017 for works to commence on the 14th of October 2017.
- The appeal response includes a number of photographs of the western boundary of the appellants' site. This forms the eastern boundary of the applicant's site. The photographs which the first party state were taken on

September 2nd 2021 indicated that the planting conditioned under Reg. Ref. 09/1553 in relation to the appellants' dwelling was not carried out. It is stated that the conditions of that permission would serve to screen their site and therefore protect their privacy.

- The applicant is proposing to move her house back on the site to be more or less in line with the appellants' house as indicated on the site layout plan.
- It is noted that the appellants' dwelling is located approximately 34m from the public roadway and the applicant's house is proposed to be positioned 33m from the public roadway.
- A copy of a letter from the applicant's solicitor has included with the appeal response. It confirms that the transfer of the ownership of the site to Ms. Angeline Sheehan is pending.

6.3. Planning Authority Response

- None received

7.0 Assessment

The main issues in this appeal are raised in the grounds of appeal. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Siting and impact on residential amenity
- Other issues
- Appropriate Assessment

7.1. Siting and impact on residential amenity

- 7.1.1. Under the current application it is proposed to change the location of the dwelling on site which was granted permission under Reg. Ref. 17/410. Under this extant permission where a relocation of the dwelling on site is sought there is permission for a detached two-storey house with site entrance and effluent treatment system.

- 7.1.2. Having regard to the nature of the application I am satisfied therefore that the matter of the principle of the development, house design, on-site wastewater treatment and vehicular access have been fully addressed under the extant permission.
- 7.1.3. It is proposed to locate the dwelling 8m back on site from the location permitted under Reg. Ref. 17/410. The dwelling as granted was setback 25m from the northern roadside boundary. It is proposed to set it back to 33m from the roadside boundary. The appellants' property is situated to the east of the site and their dwelling is setback circa 34m from the public road. The appellants have objected to the relocation of the dwelling on the site on the basis that it would be located inline with their property and that the dwelling would impinge upon their privacy.
- 7.1.4. In respect of this matter, I note that with the dwelling on site relocated 8m to the south it would be roughly inline with the appellants property on the neighbouring site to the east. The subject dwelling is orientated with the front of the dwelling directly addressing the road to the north. The side of the dwelling addresses the eastern boundary which it shares with the appellants' property. The appellants' dwelling which is a two-storey dwelling and roughly H-shaped and is positioned on site with the front of dwelling angled away to the west so that side the dwelling is not directly inline with the public road to the north. As currently proposed from the closest point at the eastern side of the subject dwelling it would be setback circa 40m from the front of the appellants' dwelling. Accordingly, having regard to the significant separation distance provide between the two dwellings I do not consider that the proposed relocation of the subject dwelling would cause any undue overlooking of the appellants' property or unduly impact upon the residential amenities of the property.
- 7.1.5. I note first party response to the appeal highlights conditions no. 10 and no. 11 of the original permission granted for the appellants' dwelling under Reg. Ref. 09/1553. Condition no. 10 specified that screen planting be provided along the western boundary of the site consisting of native broadleaf tree species. Condition no. 11 specified that the proposed development shall be screened from the public road by the planting of evergreen and broad-leafed trees planted at suitable intervals to provide an effective visual screen and that at least 20 no. trees shall be planted in informal groupings around the front, rear, and sides of the house to reduce the visual impact of the proposed. On inspection of the appeal site, I observed as highlighted in

the appeal response that to date this conditioned tree planting was not carried out in the appellants' site.

- 7.1.6. In relation to the permission granted for the subject dwelling under the PA Reg. Ref. 17/410, condition no. 12 specifies that screen planting shall be provided along all the boundaries of the site and that the planting shall consist of native broadleaf species. The planting of trees along the site boundaries as condition under PA Reg. Ref. 17/410 will ensure that as the planting matures the two dwellings will be satisfactorily screened from each other.
- 7.1.7. The Planning Authority in their grant of permission under Reg. Ref. 21797 attached condition no. 3 which specified that *"This permission is subject to the terms of the governing permission, Planning Reference No. -17/410 except where departure from the terms of that permission, in respect of the change of house location on the site, is hereby authorised by this permission. This permission and the governing permission expires on the 11/12/2022."* Accordingly, should the Board decide to grant permission I would recommend the attachment of a similarly worded condition which would require that the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under planning register reference number 17/410, including the duration of that permission and any agreements entered into thereunder.

7.2. Other issues

Validity of application

- 7.2.1. The appellants have raised concern in respect of the validity of the application made to the Planning Authority under PA Reg. Ref. 21/797. It is set out in the appeal that the application did not include house plans and elevations and that there were no on-site wastewater treatment assessment with the application.
- 7.2.2. In response to these matters, I note that the Planning Authority were satisfied with the plans and documentation submitted with the application and that the application was deemed valid on that basis. Furthermore, I note the application refers to a change of house location on site from that granted under planning reference 17/410 and therefore it refers solely to the location of the dwelling on site which has

previously been granted permission under reference 17/410 for a two-storey house with site entrance and effluent treatment system and therefore the details raised by the appellants in respect of the current application were previously addressed under the existing permission.

- 7.2.3. Accordingly, I do not consider that this matter is a reasonable and substantive grounds for refusal of the proposed development.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of the proposed development, a change of house location on site from that granted under planning reference 17/410, and the separation distance to any European site, 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

- 8.1. It is recommended that permission be granted subject to conditions for the reasons and consideration set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the planning history of the site, the proposed siting of the dwelling and the set back from adjoining public road, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of neighbouring property. The proposed development would be in accordance with the proper planning and sustainable development of the area.

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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under planning register reference number 17/410, including the duration of that permission and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. 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.

Siobhan Carroll
Planning Inspector

31st January 2022