



An
Bord
Pleanála

Inspector's Report ABP 313915-22.

Development	Dwelling, vehicular entrance, proprietary treatment system and polishing filter and associated site works.
Location	Springfield, Sixmilebridge, Co. Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	22336
Applicant	Lauren Browne
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant	Eamonn Tuite
Observers	None
Date of Site Inspection	22/11/2022
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site is located on lands at Springfield, Sixmilebridge, Co. Clare. It is situated circa 4km to the south-west of the village of Sixmilebridge. Shannon is located circa 6km to the west and Ennis lies 21km to the north-west. The lands in the vicinity are predominately agricultural in character with sporadic housing along the surrounding roads.
- 1.2. The site has a stated area of 0.2035 hectares it is roughly rectangular in shape. The site comprises the north-western corner of a larger field which is grassed. It has frontage of 37m onto the L3034 local road. The roadside boundary is formed by a stone wall. The appellant's property a two-storey detached dwelling is situated circa 12m to the north of the site boundary. To the west of the site on the opposite side of the road there is a dormer dwelling.

2.0 Proposed Development

- 2.1. Permission is sought for the development of a dwelling, vehicular entrance, proprietary treatment system and polishing filter and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission subject to 13 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It was concluded in the report of the Planning Officer that the applicant has shown a rural housing need and that the site is located within her local rural area. The proposal was considered acceptable in principle. It was recommended that the dwelling be relocated 3m to the south.

3.2.2. Other Technical Reports

Environmental Health Officer – No objection subject to conditions.

3.3. **Prescribed Bodies**

- 3.3.1. Irish Water – No objections.
- 3.3.2. Irish Aviation Authority – No observations.

3.4. **Third Party Observations**

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

4.0 **Planning History**

ABP 308104-20 & Reg. Ref. 20244 – permission was refused for the construction of a dwelling house, garage, a proprietary waste water treatment system. Permission was refused for the following reason;

The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live at this site within this rural area, or that the applicant’s housing needs cannot be satisfied in an existing settlement. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location and that the proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, notwithstanding the provisions of the Clare County Development Plan 2017-2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National Policy

5.1.1. Sustainable Rural Housing Planning Guidelines DOE 2005

5.1.2. The site of the proposed development is located within an area designated as being under strong urban influence. The Guidelines distinguish between 'Urban Generated' and 'Rural Generated' housing need. Example of situations where rural generated housing need might apply as set out in the Guidelines include rural houses for persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas.

5.2. National planning Framework (NPF)

5.2.1. National Policy Objective 19

5.2.2. Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment and elsewhere:

5.2.3. In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlement.

5.3. Climate Action Plan 2023

5.3.1. The plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve out emissions by 2030 and reach net zero no later than 2050.

5.3.2. Chapter 15 refers to Transport

5.3.3. Section 15.3.2 – refers to Avoidance

5.3.4. It seeks to deliver systems change, policy measures aimed at better aligned transport and spatial and land use planning are critical. Policies already in place in this context are the NPF, Housing for All (HfA) and Town Centre First (TCF) and a number of relevant actions are already reflected in the SMP.

5.4. **Development Plan**

5.4.1. The operative plan for the area is the Clare County Development Plan 2017-2023 (as varied). The appeal site is located within an area designated the Western Corridor Working Landscape and in an Area Under Strong Urban Pressure as indicated on Map 3B: Areas of Special Control.

5.4.2. CDP 3.11 – Development Plan Objective: 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
- Heritage Landscapes
- Sites accessed from Scenic Routes

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.

A. Local Rural Persons

B. Persons Working Full Time or Part-time in Rural Areas

C. Exceptional Health and/or Family Circumstances

5.4.3. CDP 13.3 – Development Plan Objective: Western Corridor Working Landscape

It is an objective of the Development Plan:

A. To permit development in these areas that will sustain economic activity of regional and national significance – especially through the protection of resources to sustain largescale energy projects, logistics, large-scale manufacturing and associated infrastructure. All such developments shall be

required to conform to relevant management and conservation objectives for designated and protected habitats and species within the estuary;

- B. That selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards reducing visual impact and that residual visual impacts are minimised;
- C. That particular regard should be given to avoiding intrusions on scenic routes and on ridges or shorelines. Developments in these areas will be required to demonstrate:
 - i. That sites have been selected to avoid visually prominent locations wherever feasible;
 - ii. That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads;
 - iii. That design for buildings and structures reduce visual impact through careful choice of form, finish and colours and that any site works seek to reduce visual impact of the development.

5.5. Natural Heritage Designations

- 5.5.1. The site is located approximately 3.1km to the north of the Lower Shannon SAC (Site Code 002165).
- 5.5.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) is located circa 3.7km to the south of the appeal site.
- 5.5.3. The site is located 6.7km to the south-east of Lough Gash Turlough SAC (Site Code 000051).

5.6. EIA

- 5.6.1. 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

A third party appeal was submitted by Eamonn Tuite. The issues raised are as follows.

- The appellant stated that the Planning Authority in their assessment of the application did not give due consideration to the matters he raised in his objection.
- The appellant raises the matter of housing need and stated that the Planning Authority did not seek information from the applicant to verify their housing need.
- The appellant stated that there are other properties and sites for sale which are located closer to the applicant's residence.
- In relation to the submitted plans it is stated that the required sightlines at the proposed vehicular entrance have not been provided.
- It is highlighted that the permission granted by the Council included permission for a garage which was not indicated on any of the plans submitted with the application.
- It is noted that the Board previously refused permission for the development of a dwelling on the site under Reg. Ref. P20/244 & ABP 308104-20.
- Concern is expressed that the proposal would constitute sporadic development and there could be further one-off housing developed on the landholding of which the subject site forms part which would result in ribbon development.

6.2. Applicant Response

A response to the third party appeal was submitted by Kildimo Planning Services on behalf of the applicant Lauren Browne. The issues raised are as follows.

- In response to the first point raised in the appeal, it is stated that the matters raised in the objection from Mr. Tuite were listed in the report of the Planning Officer and that a reasoned dismissal of the points was provided.
- Furthermore, it is highlighted that the concerns in respect of residential amenity were taken into consideration with the attachment of a condition requiring the relocation of the dwelling 3m to the south.
- The appellant raised the matter of the applicant's eligibility to qualify to build a dwelling in the rural area. It is stated that details were provided to the Planning Authority in relation to Ms. Browne's housing need eligibility and other relevant details. A further letter dated May 17th 2022 was submitted in response to the submission/observation from Mr. Tuite. This letter clarifies the applicant's living arrangements.
- The appeal refers to other houses and sites for sale in the area. It is responded that this is irrelevant and that in any case such sites were out of budget.
- Regarding the matter of sightlines, the site layout drawing, titled 'Site Layout, March 2022' indicates the sightlines at a setback of 2.4m from the road edge. Sightlines of 90m are available in both directions. It is noted that there is no requirement to alter the neighbouring wall to achieve the sightlines.
- The sightlines proposed are the same as those proposed under Reg. Ref. P20/244 & ABP 308104-20. It is noted that the Board in their assessment of the appeal did not any concerns regarding the sightlines. It is confirmed that sightlines comply with part 6.2.6 NRA TD 41/42 Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Road, January 2009.
- The appeal refers to condition no. 12 of the grant of permission. This condition refers to "the proposed garage". It is stated that the appellant is correct in

noting that plans for the garage were not submitted with the application. It is understood that the attachment of this condition is an administrative error.

- The previous appeal (Reg. Ref. P20/244 & ABP 308104-20) and the Board's decision to refuse permission is noted by the appellant. The reasoning behind this refusal is stated as "the Board is not satisfied that the applicant has a demonstratable economic or social need to live at this site within this rural area, or that the applicant's housing needs cannot be satisfied in an existing settlement."
- It is highlighted that this refusal is based on the individual rather than the site. It is stated that the applicant Ms. Browne has both a need to live within this rural area and close to the family home.
- The appeal refers to the previous planning application at this location in relation to the landowner's intentions for further development. In response it is stated that this is irrelevant to the current application as Clare County Council did not request a Section 47 for the associated lands. It is considered that the appellant's concerns regarding the introduction of ribbon development are unfounded.
- On the basis of the information provided with the appeal response and as submitted with the application it is requested that the Board uphold the decision of Clare County Council and grant permission.

6.3. Planning Authority Response

- The Planning Authority notes the grounds of the appeal. In relation to the comment regarding condition no. 12 which refers to a proposed garage, the Planning Authority confirm that this was an error.
- The Planning Authority requests that the Board uphold the decision to grant permission.

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:

- Rural Housing policy
- Vehicular Access
- Siting and Design
- Appropriate Assessment

7.1. Rural Housing policy

- 7.1.1. With regard to compliance with rural housing policy the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Clare County Development Plan 2017 – 2023 (as varied), as it relates to settlement in rural areas. The appeal site is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. These areas are typically close to larger urban centres which are under pressure for housing in the countryside and have road networks which are heavily trafficked. The guidelines suggest that certain classes of persons e.g. those occupied full time or part-time in agriculture, forestry, those who are an intrinsic part of the rural community, sons/daughters of farmers and returning emigrants, may be considered for housing in the countryside.
- 7.1.2. The National Planning Framework is a high-level strategic plan which sets out to shape the future growth and development of the country to 2040. National Policy Objective 19 of the NPF sets out to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements.

- 7.1.3. The site at Springfield, Sixmilebridge, Co. Clare is located within an area designated as being a Rural Area Under Strong Urban Influence” in the development plan as indicated on Map 3B: Areas of Special Control.
- 7.1.4. Chapter 3 of the Clare County Development Plan 2017 – 2023 (as varied) refers to Urban and Rural Settlement. Objective CDP3.11 is the relevant objective in relation to “New Single Houses in the Countryside within areas of special control. As set out in the development plan it is the policy of the Council to facilitate the rural generated housing requirements of the local rural community whilst also directing urban generated rural housing to areas zoned for new housing developments into existing settlements in city, town and village locations.
- 7.1.5. Objective CDP3.11 sets out that in order for applicants to gain permission for single house development in the rural area for the permanent occupation of the applicants, they shall fall within one of the Categories A, B and C and meets the necessary criteria.
- 7.1.6. Category A refers to a ‘local rural person’ where the site is within their ‘local rural area’ and the applicant must have a ‘local rural housing need.’ In relation to category B it relates to persons working full time or part time in rural areas and category C refers to exceptional health and/or family circumstances.
- 7.1.7. The definition of a ‘Local Rural Person’ is set on page 50 of the development plan under Category A. It is defined as, *“A Local Rural Person(applicant) is a person who was born within the local rural area, or who is living or has lived permanently in the local rural area for a substantial period of their life at any stage(s) prior to making the planning application. It therefore includes returning emigrants seeking a permanent home in their local rural area who meet this definition. It also includes persons who were born or lived in a rural area for substantial periods of their lives but that area is now within a settlement boundary/zoned land.”*
- 7.1.8. The applicant Lauren Browne is seeking to purchase the site subject to planning permission being granted. As detailed in the application form that the applicant has never owned a house or apartment. Details provided with the application state that Ms. Browne lived at her family home from 1997. The applicant’s family home is situated at Headley Court, Bunratty circa 900m to the south of the appeal site. The

applicant is employed as a primary teacher at Clonlara National School which is located in the village of Clonlara circa 20km from the appeal site.

- 7.1.9. The applicant's family home while located circa 900m from the appeal site, is located within a serviced settlement of over 30 no. dwellings located 2km to the north of Bunratty. Accordingly, I do not consider that the applicant has demonstrated a rurally generated housing need.
- 7.1.10. In conclusion, based on the documentation submitted as part of the application and appeal, I am not satisfied that the applicant has demonstrated that they come within the scope of the rural-generated housing need criteria for a house in this rural location, having regard to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in April 2005, wherein it is indicated that it is policy to distinguish between rural-generated housing need and urban-generated housing need in an area designated as under 'Strong Urban Influence' (such as applies in this instance) and accordingly considered that the proposed development would represent urban-generated rural housing. Furthermore, the proposed development does not comply with National Policy Objective 19 of the National Planning Framework.

7.2. Vehicular Access

- 7.2.1. The appeal raises the issue of the proposed vehicular entrance and questions whether adequate sightlines are available.
- 7.2.2. It is proposed to develop a new site access onto the L3034, local road. This road has a junction to the south onto the R471 circa 658m from the site and a junction to the north onto the R470 circa 2.4km from the site.
- 7.2.3. The construction of the entrance would involve the removal of a limited section of the existing roadside boundary, which is formed by a stonewall, approximately 14m. It is indicated on the Site Layout plan that sightlines of 70m can be provided to the north and south and the proposed entrance. I note that the provision of sightlines would not require the removal of roadside boundary outside the site. Having inspected the site and viewed the location of the proposed entrance I am satisfied that an adequate sightline distance is available in both directions. Accordingly, I consider the proposed location of the entrance acceptable.

7.3. Siting and Design

- 7.3.1. The appellants have raised concern at the design and location of the proposed dwelling. The proposed dwelling has a floor area of 165.55sq m. The house design is single storey with a proposed ridge height of m. It is proposed to locate the dwelling a minimum distance of 25m from the public road to the west. The appellant's dwelling would be located 17m to the north of the proposed dwelling at the closest point. The proposed dwelling would be located 37m from the closest residential property to the west on the opposite side of the road. I note that condition no. 3 of the grant of permission required that the dwelling be relocated 3m to the south to address concerns expressed by the appellant in relation to potential impact upon residential amenity.
- 7.3.2. The road side site boundary is formed by a low stone wall and the western boundary with the appellant's property is defined by a low timber fence. There are trees planted along the timber fence within the appellant's property. It is indicated on the Site Layout that tree planting is proposed around the perimeter of the site and also a grouping of trees are proposed to be planted to the front of the dwelling. The provision of this landscaping would serve to screen the proposed dwelling and provide additional privacy between the appellant's property.
- 7.3.3. The appeal raises concern that the proposal would constitute sporadic development. The proposed development would entail the development of a dwelling within the rural landscape. The rural housing policy is detailed in section 3.2.5 of the Development Plan and is discussed under section 7.1 of this report. It is stated under this section of the Development Plan that urban generated pressure for housing, if not properly managed, can result in ribbon development and piecemeal/haphazard development along the approach roads to larger settlements. The subject development of an additional dwelling in this rural area would I consider contribute to the encroachment of random rural development in the area.
- 7.3.4. The appellant raised the matter of condition no. 12 of the grant of permission attached by the Planning Authority. Condition no. 12 states.
12. The proposed garage shall not be used for human habitation or any commercial activity or for any other purpose than a purpose incidental to the enjoyment of the dwelling.

Reason: In the interest of residential amenity and the orderly development of the area.

- 7.3.5. The subject application is for the construction of a dwelling, vehicular entrance and proprietary treatment system. Accordingly, the description of the development proposed does not include a garage and also a garage is not indicated on the submitted plans. The Planning Authority in their response to the appeal have confirmed that the attachment of this condition was an error.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, 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 refused permission for the reason set out below.

9.0 Reasons and Considerations

1. Having regard to:

- (a) the location of the site within a rural area under urban influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005,
- (b) National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a

rural area, having regard to the viability of smaller towns and rural settlements, and

- (c) the objectives of the Clare County Development Plan 2017-2023, specifically, Objective CDP3.11 which seek to discourage urban generated housing in rural areas and to direct proposals for such housing to the towns and villages in the county, and which seek to manage the development of rural housing in the open countryside by requiring the applicants to demonstrate compliance with the Local Housing Need Qualifying Criteria,

it is considered that the applicant does not come within the scope of either the economic or social housing need criteria set out in the overarching Ministerial Guidelines or the relevant Local Housing Need Qualifying Criteria of the current county development plan. The proposed development, in the absence of any identified locally based need for a house at this location, would result in a haphazard and unsustainable form of development in an unserved area, would contribute to the encroachment of random rural development in the area, would mitigate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would undermine the settlement strategy set out in the current county development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

12th of January 2023