



An
Bord
Pleanála

Inspector's Report

ABP-315158-22

Development	Construction of dwelling and all associated site works
Location	Ballykelly, Broadford, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	22707
Applicant(s)	Brian McNamara
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Brian McNamara
Observer(s)	None
Date of Site Inspection	20 th June 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The site is situated in the townland of Ballykelly, circa 2.5km southwest of Broadford village, Co. Clare. The site is accessed via a narrow country road which presently serves 6 no. dwellings and farming and forestry related uses.
- 1.2. The site currently comprises commercial forestry which is accessed via a private lane running along the western boundary of the site and a small field accessed directly from the adjoining public road. A track has been excavated through the field relatively recently and extends from the field entrance to the area of forestry. The site has a stated area of 0.617ha.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single storey three-bedroom house (125.5sq.m), a detached boiler house (17.7sq.m), wastewater treatment system and all ancillary site works.
- 2.2. An area of forestry is to be cleared to the south of the site and a modest cut made into the slope where the proposed dwelling is to be constructed. A sweeping driveway would extend from the existing field entrance on the public road to a forecourt adjoining the house along the alignment of the recently excavated track. The design of the house has a rectangular plan and a shallow pitched roof with an overall ridge height of 3.6m; the external finishes include ship-lapped timber boards and a tile effect steel roof.
- 2.3. The proposed percolation area would be located to the north of the site in the existing agricultural field. Surface water would drain to a water course to the south of the site. A new bored well is proposed in the southwestern corner of the site for the purposes of water supply.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 28th October 2022 Clare County Council refused permission due to the site access being via a minor road which is seriously substandard in terms of

width, alignment and surface condition, and the traffic generated by the proposed development resulting in a traffic hazard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer considered the applicant compliant with the Council's rural housing policy as set out in the Clare County Development Plan 2017-2023 (now superseded), and that the proposed development would not have negative impacts on visual or residential amenities, would not be prejudicial to public health or give rise to a flood risk.

3.2.3. The Planning Officer noted that the site is accessed via a narrow tertiary road in extremely poor condition from where the tarred road ends at the nearest existing dwelling 460m to the northwest of the site. She also noted that An Bord Pleanála refused permission for a new dwelling proximate to the said existing dwelling due to the substandard nature of the road.

3.2.4. The Planning Officer recommended that permission be refused due to the access road leading up to the site being unsuitable to serve further development and the traffic hazard that would arise because of the proposed development.

3.2.5. The Planning Officer's recommendation was endorsed by a Senior Executive Planner and is reflected in the decision of the Planning Authority.

3.2.6. Other Technical Reports

3.2.7. Area Engineer: Considered sight lines and proposed set back adequate. Recommended a condition that the proposed development shall not impact on roadside drainage, surface water shall not run onto the public road, and the site development accord with SuDS guidelines.

3.2.8. Environment Section: States that it has been demonstrated that the site meets the criteria for an onsite wastewater treatment system and that the proposed domestic wastewater treatment system would comply with the EPA Code of Practice for Domestic Wastewater Treatment Systems with a P.E. ≤ 10 . Recommended permission be granted subject to standard conditions regarding the design and installation of the DWWTS and the management of surface water.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

Subject site:

P.A. ref. ref. 20/732: Application for a single storey dwelling house, detached boiler house, septic tank system and ancillary site works for Brian McNamara withdrawn 16th December 2020.

Relevant Applications:

P.A. Reg. Ref. 19/112, ABP ref. 304413-19: Permission refused for a two-storey house for Gillian Durrack on a site circa 400m northwest of the subject site on 16th August 2019 due to the location of the site on a minor road which is seriously substandard in terms of width and alignment and the traffic hazard arising from the proposed development.

5.0 Policy Context

5.1. Clare County Development Plan 2023-2029

The site is situated in a rural area under strong urban influence as identified on Map H8 of the County Development Plan. In these areas, the key objectives of the Council are:

- a) To facilitate the genuine housing requirements of persons with a demonstrable economic or social need to live in these rural areas.
- b) To direct urban-generated development to areas zoned for new housing development in the adjoining urban centres, towns, villages and clusters as identified in the County Settlement Strategy and to seek to enhance the vitality and viability of these settlements.

Objective CDP 4.14 states it is an objective of Clare County Council:

i. In the parts of the countryside within the 'Areas of Special Control' i.e.:

- Areas Under Strong Urban Influence
- Heritage Landscapes
- Sites accessed from or abutting Scenic Routes

To permit a new single house for the permanent occupation of an applicant who meets the necessary criteria as set out in the following categories.

ii. To ensure compliance with all relevant environmental legislation as outlined in Objective CDP3.1 and to have regard to the County Clare House Design Guide, with respect to siting and boundary treatments.

The identified rural housing need categories include Category A - Economic Need, and Category B – Social Need. Detailed criteria are set for the purposes of demonstrating compliance with each category.

The site is also situated in an area designated as a settled landscape. Objective CDP14.2 of the Plan states it is an objective of the Council:

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

- I. Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- II. 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;
- III. Regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:-

- a) That the site has been selected to avoid visual prominence.

- b) That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.
- c) That design of buildings and structures reduces visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.

Section A1.4.1 of Appendix 1 of the Plan contains development management guidance for rural residential development in respect of siting and design, road frontage, plot size and wastewater treatment systems.

5.2. National Planning Framework

Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades any by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant local communities.

Policy Objective 19: 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:

- In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and villages.
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

These guidelines expanded on the rural housing policy framework set out in the National Spatial Strategy (2002) in place at the time and provide that:

- People who are part of the rural community should be facilitated by the planning system in all rural areas, including those under strong urban-based pressures,
- Anyone wishing to build a house in rural areas suffering persistent and substantial population decline will be accommodated, and
- The development of the rural environs of major urban areas, including the gateways and hubs identified in the NSS and county and other larger towns over 5000 in population needs to be carefully managed in order to assure their orderly development and successful functioning into the future.

5.4. Natural Heritage Designations

The site is located circa 1.1km from Danes Hole, Poulnalecka SAC (Site Code 030), and circa 0.2km from Goracullin Bog NHA (Site Code 02401).

5.5. EIA Screening

Having regard to the residential nature and small scale of the development and the absence of any significant environmental sensitivity in the vicinity of the 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. This is a first-party appeal against the decision of Clare County Council to refuse permission. The grounds of appeal are summarised as follows:

- The applicant currently lives in his mother's house, the family farmhouse, which his brother has inherited along with the adjoining land that he farms.
- He owns circa 60 acres of land around the subject site, 40 acres of which is forestry. The remainder is used for farming horses. He travels to the landholding several times daily and hopes to build a house there.

- It would be beneficial for him to live on the landholding to take care of his livestock, especially in breeding season, manage his forestry, and reduce the need to travel to and from the landholding.
- The proposed dwelling would be erected in a few weeks as it is prefabricated, would be in keeping with its surroundings and would not be visible from the road or overlook neighbours.
- Generations of the applicant's family have farmed in the area; the applicant has no other land or site to build on and the current proposal is the only affordable option for him to build in the area.
- Clare County Council has failed to maintain the public road serving the site; the applicant was advised by a local councillor to withdraw his previous planning application to give the Council time to maintain the road. Some maintenance was undertaken this year and it is understood that the Council awaits funding to resurface the road.
- The road is used daily by 8 no. individual farmers and a dwelling located beyond the application site (Eircode V94T2Y4); many people use the road in its present condition without any problem or complaints.

6.2. Planning Authority Response

Refers to the Planner's Report and requests that its decision be upheld.

6.3. Observations

None.

7.0 Assessment

7.1. The main issues to be addressed in this appeal relates to:

- Rural Housing Need
- Traffic Safety
- Appropriate Assessment

7.2. Rural Housing Need

- 7.2.1. The applicant sets out the reasons why he needs to build his home on the subject site in his appeal. I note the site is now situated in an area identified in the current Clare County Development Plan as being under strong urban influence (Map H8 of the Plan refers). When the application was assessed by the Planning Authority under the previous County Development Plan the site was situated outside a designated area of special control where applicants are not required to demonstrate a social or economic need to live in the area. The applicant's rural housing need must, therefore, be reassessed against the rural housing policy of the current County Development Plan.
- 7.2.2. The applicant currently lives with his mother in the family home at Woodfield, Broadford, which is located circa 1.5km northwest of the site. On his planning application form he indicates that he has not lived anywhere else. He states he previously owned a dilapidated house in O'Callaghan's Mills which he sold in 2006. He farms horses and manages forestry on a circa 60acre landholding on which he proposes to build a dwelling for his own permanent residence. He is also employed in the motor trade 20km from his present residence.
- 7.2.3. As per Objective CDP 4.14(i) of the Plan, applicants for a new single house for permanent occupation in areas under strong urban influence must meet either the economic or social criteria set out in the Plan. There is insufficient information before me to confirm the applicant complies with the relevant economic criteria as it is unclear whether his forestry and farming related activities are his predominant occupation. Notwithstanding, as the applicant has not lived anywhere other than the family home in the local rural area, I am generally satisfied that he complies with the Plan's social need criteria for a rural house insofar as he was born in the local rural area and lived there for a minimum of ten years.
- 7.2.4. The social need category also states the applicant must not already own or have owned a house in the surrounding rural area. Whilst the applicant previously owned a house in O'Callaghan's Mills, a small village situated in the surrounding rural area as defined by the County Development Plan (i.e. located within 10km of the site), he describes it as having been dilapidated. I do not consider it reasonable to preclude him from this rural housing need category if the property was uninhabitable although

further information regarding the exact location of the property and evidence that it was uninhabitable should be sought. Given the more substantive issues of traffic safety, however, I recommend that this matter be put aside.

7.3. Traffic Safety

- 7.3.1. My main concern regarding the proposed development relates to the condition and carrying capacity of the public road network serving the site. The road passes through the townlands of Hurdleston and Ballykelly, between two hills (Knockaunnamoughilly and Knocksize), and connects to an equally narrow local road leading into Broadford village. The western end of the road serves 5 no. dwellings in the townland of Ballykelly, the last of which is located circa 935m along the road. The subject site is located circa 500m beyond this dwelling.
- 7.3.2. The road carriageway measures approximately 3m in width. The road alignment incorporates numerous bends as it passes through Ballykelly, as well as being on an incline. Whilst the road is tarred, its surface is in a very poor condition leading up to the site, and from there on the condition of the road deteriorates even further. Most of the road traffic is likely to be concentrated on the Ballykelly stretch of the road given the concentration of dwellings in this townland.
- 7.3.3. Having regard to the foregoing, the proposed development would generate additional traffic on a seriously substandard road where two vehicles travelling in opposite directions cannot pass simultaneously. Whilst the applicant states that may people use the road in its present condition without any problems or complaints, incremental developments of one-off housing, which are highly car dependent, would increase the likelihood of existing road users meeting an oncoming vehicle, resulting in dangerous reversing manoeuvres on sections of a road with poor vertical and horizontal alignment i.e. around bends on an incline. As such, the traffic generated by the proposed development would endanger public safety by reason of a traffic hazard.
- 7.3.4. The Board should note that it refused planning permission in 2019 for a new dwelling on a site circa 400m north of the subject site owing to its location on a minor road which is seriously substandard in terms of width and alignment and the traffic hazard arising from the proposed development (APB ref. 304413-19 refers). This is the same road that serves the subject site. There have been no significant

improvements or upgrades to the road in the intervening period that would warrant a change in the Board's position.

7.3.5. Having regard to the foregoing, I recommend that planning permission be refused.

7.4. **Appropriate Assessment**

7.4.1. Having regard to the nature and modest scale of the proposed development, which comprises a dwelling served by an on-site domestic wastewater treatment system, the distance to the nearest European Sites, and in the absence of any hydrological or other connections to European Sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Appropriate Assessment is not, therefore, required.

8.0 **Recommendation**

8.1. I recommend that permission be **refused** for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

The site of the proposed development is located on a minor road which is seriously substandard in terms of width, alignment and surface condition. It is considered that the traffic generated by the proposed development would endanger public safety by reason of a traffic hazard.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Eoin Kelliher
Planning Inspector

4th July 2023