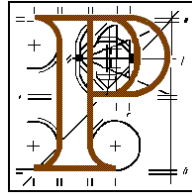


An Bord Pleanála



Inspector's Report

Development: Construct dwellinghouse, domestic garage, entrance and install a septic tank and percolation area.

Planning Application

Planning Authority: Kerry County Council
Planning Authority Reg. Ref.: 1228/05
Applicant: Ian O Connor and Karen Glover
Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant: Dermot and Anne Casey
Observer: None
Type of Appeal: Third Party v Grant
Date of Site Inspection: 19/11/05

Inspector: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The site is located off a minor public road close to a junction with the N22 (Tralee to Killarney road). The N22 has been subject of road improvement works which were nearing completion at the time of inspection and the minor road between the site and the junction with the N22 was in the process of being widened. The pattern of development in this area is characterised primarily by individually constructed on-off houses with access onto the public road. The majority of these houses have been constructed in recent decades and the roadside boundaries have been set back from their original position as part of the development.

The site comprises part of an overall landholding which includes a single storey cottage at its western frontage. The site has an extensive road frontage which results from its position on a sharp bend in the public road. At present there is a fairly dense roadside hedge fronting the site but the cottage on the applicant's holding is partly bounded by a low rendered wall. The stated area of the overall holding (from the land registry map on file) is 0.4299 hectares and the stated site area given on the application form is 0.22 hectares.

The ground level is substantially elevated above the public road and rises towards the rear and west of the site. A dwellinghouse located to the east of the site appears to have been recently constructed and is on substantially lower ground as are houses across the public road from the site. Two of the houses on the opposite side of the road in the immediate vicinity of the site are single storey houses. However, there are also dormer houses in the area.

The site and surrounding area are shown in photographs taken by me at the time of my inspection which are located in a pouch to the rear of this report.

PROPOSED DEVELOPMENT

It is proposed to develop a dormer style dwellinghouse of stated floor area of 292sq.m. and a detached garage, which would be to the rear of the house and would be of about 90 sq.m. The development would be served by a septic tank and percolation area and there is a public water supply in the area. .

PLANNING HISTORY

Under planning reg. ref. 02/2331 an application for permission for a septic tank and percolation area at the cottage on the applicant's landholding was granted permission.

Details are on file of the planning history related to the dwellinghouse to the east of the site.

DEVELOPMENT PLAN AND OTHER POLICY

The relevant Development Plan is the Kerry County Development Plan 2003-2009. The site is not affected by any listed views, scenic landscape designations or areas designated for protection for reason of ecological value. Gortatlea is not designated as a settlement under the settlement strategy.

The area in which the site is located is within the Tralee-Killarney development corridor in relation to which it is policy to promote the area in order to provide the impetus for the future development of the county. In relation to Rural General Areas residential development will be favourably considered subject to provisions set out in Section 3.3.4 which include good design and appropriate site selection, that the development be acceptable in terms of traffic safety and the site be suitable for sewage disposal. This section of the plan also notes that the replacement / rehabilitation of derelict houses ' should in certain instances, be encouraged as a more sustainable option than the construction of new dwellings'.

General policy relating to landscape protection is set out in objective ZL 11 – 1 wherein it is a stated objective of the Council to protect the landscape of the county as a major economic asset as well as for its invaluable amenity value.

Under the Sustainable Rural Housing Guidelines for Planning Authorities published in April 2005 the site is identified as an 'area under strong urban influence'. Recommendations for such areas are set out in Appendix 3 of the guidelines and the key objective of such areas is stated to be facilitating the housing requirements of the rural community in light of local conditions and on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages. Rural generated housing is discussed in Section 3.2.3 wherein it is considered that persons who are in an intrinsic part of the rural community or persons working full time or part time in rural areas might be favourably considered.

In relation to ribbon development, the Guidelines state that In assessing individual housing proposals in rural areas planning authorities will need to form a view as to whether that proposal would contribute to or exacerbate ribbon development. An indicative description of ribbon development is given as where 5 or more houses exist on any one side of a given 250 metres of road frontage. Whether a given proposal will exacerbate such ribbon development or could be considered will depend on criteria outlined including the type of rural area and circumstances of the applicant and the degree to which the proposal might be considered infill development.

DECISION OF PLANNING AUTHORITY

The Planning Authority decided to grant permission having regard to the provisions of the development plan and the existing and permitted development in the area and the information submitted as part of the application. Conditions attached included those summarised below:

- Use of the dwelling house to be as a primary all year round private residence and to be occupied for the sole use of the initial applicant for a period of two years, details of the initial applicant to be notified to planning authority;
- Development to be in accordance with the plans and particulars received by the planning authority on 22/04/05 and 30/06/05 and dwelling to be located as shown on site layout of 30/06/05;
- One dwelling house only to be constructed on the site and house to be in accordance with design receive by the planning authority on 22/04/05 and certain materials specified;
- Finished floor level to be in accordance with the section drawing received by the planning authority on 30/06/05;
- Dwelling house to be provided with a proprietary wastewater treatment and installation to be certified;
- Provisions regarding setting back of the front boundary, vehicular access and sightlines;
- Landscaping to include a minimum of 40 heavy standard saplings / semi-mature native trees as we;; as native hedgerow along the site boundaries and applicant to consider transplanting the existing trees / hedges within the existing roadside boundary which is to be removed;
- Garage to be reduced to 40sq.m. or to be omitted – use to be for domestic storage and to be retained with house;
- Contribution under the General Scheme.

GROUNDS OF APPEAL

The main points of the third party appeal are:

- The appellant's reside in the house opposite the site of the proposed development;
- The site map is at variance with boundary position that exists on the ground;
- The drawings did not give proper information regarding the topography of the site, road levels in front of the site or surrounding house levels or any levels to enable comparison to be made;
- Consideration was not given to the location of septic tanks and proprietary waste water treatment system to be located adjacent to each other and it is unclear why the same ground conditions require a proprietary waste water treatment system and the other site a septic tank;
- There is no indication of consent from adjoining land owners to undertake improvement of sightlines;
- A sight distance of 150m in both distances;
- The height of the house is far greater than the house to the north and the large expanse of the house will be obtrusive on the skyline and will overlook our clients house and will result in the removal of natural screening;

- It should be unacceptable practice to remove considerable shrubbery to enable a house to be built on a hill overlooking existing properties and with inadequate sightlines and where the type of house and extent of house would not be in keeping with the proper planning and development of the area;
- If permission is granted the house should blend in with the existing landscape.

RESPONSE TO THE APPEAL

The Planning Authority has not responded to the appeal.

The applicant's response to the appeal includes the following comments:

- Overlooking of the appellant's house does not occur as the foliage is up to 12-15 feet high and cannot be seen from the proposed site even with the roadside boundary of the site removed – the volume of trees in the appellant's garden precludes overlooking; the appellant's house is not visible from the site;
- The revised site layout shows that sightlines of up to 150m can be achieved – the road that fronts the site is widened by the NRA so as to achieve the appropriate sightlines when it merges with the main Tralee – Killarney road;
- Roadside boundaries have been removed at other dwelling houses in the area including the appellant's house;
- The removal of the existing roadside boundary would give a clearer view for all users of the road which would be advisable considering road improvements at the main road;
- The site is an infill site;
- The appellant's agent visited the site one month after the percolation test was carried out and rainfall would account for water in the trial holes – the test results met the EPA requirements and those of the Council;
- The existing entrances i.e. the appellants and others have been developed to widen the road as is shown in photographs attached.

ASSESSMENT

The main issues arising in this appeal relate to compliance with county and national policy regarding rural housing, wastewater treatment, traffic safety, visual amenity and overlooking.

Rural Housing Policy

The site is within a rural area outside of any designated settlement node and in a General Landscape and in such areas the provisions of the Development Plan would favour residential development. The Sustainable Rural Housing Guidelines would favour applications for rural generated housing. The applicant has made for a case for a house in this area on the basis of current accommodation which is described as

'living at home' at Gurrane, which is about half a mile from the site. The information submitted is lacking detail insofar as there is no other information provided to support a rural generated housing claim and in the event that permission is to be granted at this site I would recommend that further information be sought regarding the applicant's connections with this area. In view of the other substantial matters raised below I do not propose to further address this matter in this appeal or to recommend that permission be refused for this reason.

Site Suitability – Wastewater Treatment

The decision of the planning authority required the installation of a proprietary wastewater treatment unit which was recommended for reasons relate to the density of septic tanks in this area.

The stated site area is given on the planning application form as 0.22 hectares (0.55 acres). The site defined for the purpose of the planning application excludes a substantial portion of the overall landholding which includes the single storey cottage. The dimensions of the site are 38m at the road frontage and 56m depth – the stated site area is therefore reasonably accurate. The maximum dimensions of the land associated with the cottage are 25m width and 56m depth, giving a site area of 0.14 hectares. In fact the site area is not rectangular but wedge-shaped and its area is considerably less than 0.14hectares.

Proposals for wastewater treatment at the subject site area complicated by the pattern of development in this area and in particular by the presence of a cottage at the adjoining site where there is an extant permission to develop a septic tank based on a site area of 0.122 hectares. The latter permission was granted on the basis of a larger site than is now reserved for the cottage. In the event that permission is granted the potential for utilising the existing habitable house on this site would appear to be compromised by the current proposal, the site of which overlaps with the site of the permitted development of a septic tank at the cottage. In this regard I refer the Board to the site layout submitted to the planning authority in response to the appeal and to the inadequate area available for the permitted and proposed percolation area.

The site suitability test undertaken indicates that the site is suitable for a septic tank on the basis of the percolation characteristics of the subsoil. However, apart from the concerns noted above regarding the future use of the habitable house on site, I would have further concerns regarding proposals for wastewater treatment . Firstly, while the t-value results are within acceptable limits set by the EPA, the t-value recorded does not indicate optimum site characteristics but indicates a t-value which is towards the higher side of acceptable limits. Secondly, there is an established pattern of rural housing in this area on sites which are relatively small. Third, the site layout indicates an inadequate percolation area to serve the proposed development and it would appear that the site cannot adequate accommodated the percolation area required for a house with four bedrooms. Fourth, inadequate information is submitted on the site layout regarding wastewater treatment units on adjoining sites. Finally, the layout shown which locates the percolation area uphill of the proposed septic tank would required substantial amounts of ground movement to provide suitable levels unless pumping is proposed. On the basis of the information

submitted I consider that the development proposed is unacceptable in terms of proposals for wastewater treatment and that permission should be refused for this reason.

The matter of wastewater treatment has been raised in the appeal and would not constitute a new issue in this case. I note that the applicant indicates in response to the appeal that the permitted septic tank has not been installed but there is no indication of willingness to forfeit this permission.

Traffic Safety

The applicant's response to the appeal shows sightlines of 150m in both directions from the proposed entrance. Achievement of these sightlines relies in part on the maintenance of an open area to the front of the existing cottage and of the proposed house and installation of a timber post and rail fence and the boundary of both properties. Having regard to the information on file and the gradient of land to the west of the site, I am unconvinced that these sightlines can in fact be achieved. Certainly, the preservation of an open area devoid of vegetation would have to be maintained, which would further add to the unacceptability of the development in terms of its visual impact. Sightlines to the east are of less concern but maintenance of vegetation to preserve sightlines would involve lands which are outside of the applicant's control. In conclusion I agree with the appellant that the sightlines are inadequate and recommend that permission be refused for this reason.

Visual Impact and Overlooking

Having regard to the site contours and the prominent positioning of the proposed house as well as the design of older houses in the immediate vicinity of the site, which are of single storey house form, I consider that any new house on this site should be of more modest proportions than the proposed two-storey dormer house of 292sq.m. There are other dormers in this area including at the site to the east of the house but the latter is on lower ground. I concur with the general thrust of the arguments made in the appeal in relation to the unsuitability of the design and I find that the drawings submitted with the application and in response to the appeal fail to demonstrate that the development can be clearly assimilated into the local landscape. In this regard the applicant's failure to provide site sections showing existing houses on either side and to indicate finished floor levels is a significant omission. I conclude that the development would be visually obtrusive and would lead to the suburbanisation of the landscape. Having regard to the separation distances between the proposed and existing house of over 40m, I do not consider that overlooking is likely to be a significant issue.

RECOMMENDATION

I recommend that the decision of the planning authority to grant permission be overturned and that permission be refused for the reasons below.

1. Having regard to the density of development in this area, the site size and layout and to the extant permission granted for a septic tank under planning reg. ref. 02/2331, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the site can be drained satisfactorily by means of a septic tank. The proposed development would, therefore, be prejudicial to public health.
2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate at a point where sightlines are restricted.
3. Having regard to the scale and height of the proposed development and its location on an elevated and prominent site, it is considered that the proposed development, taken in conjunction with the extent of existing residential development in this rural area, would contribute to an excessive density of random residential development and would interfere with the character of the landscape which it is necessary to preserve. The proposed development would, therefore, contravene the objectives of the planning authority to protect the landscape of the county, as set out in objective ZL11-1 of the current development plan and would conflict with the policy set out in the Sustainable Rural Housing Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mairead Kenny
Inspectorate
13-01-06