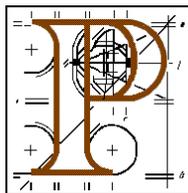


R220120

An Bord Pleanála



Inspector's Report

Development: Construct single storey dwelling house, septic tank and percolation area

Location: Ballinlough,
Beaufort,
Killarney,
Co. Kerry.

Planning Application

Planning Authority: Kerry County Council

Planning Authority Reg. Ref.: 06/1266

Applicant: Mike Furlong,
Ballinlough,
Beaufort

Type of Application: Permission

Planning Authority Decision: Permission, subject to fifteen conditions

Planning Appeal

Appellant: Michael J. Horgan,
2 Upper Cloonbeg,
Tralee

Observation: An Taisce (Kerry Association)

Date of Site Inspection: 20/02/07

Inspector: John O'Donnell

INTRODUCTION AND SITE DESCRIPTION

This is a third party appeal against a decision to grant permission for a dwelling house on land close to the western shore of Lough Leane, situated about 10 kilometres by road from Killarney. The landscape is dominated by Tomies Mountain, which lies on the eastern side of the Gap of Dunloe.

A cul-de-sac lane, about one kilometre in length and which terminates at a boat-slip, services the townlands of Ballinlough, Tomies East and Tomies West. On the north side of the lane a group of three bungalows serviced by an estate-standard road has been developed on the shore. Fronting the south side of the lane are two, mature bungalows, one occupied by the parents of the applicant. The site (6700 square metres), which is located to the rear of the parent's bungalow, comprises a worked out sand-pit adjoining a private track leading to the original farmhouse belonging to the applicant's extended family. There are two bungalows between the site and the old farmhouse and a number of other houses in the immediate area, including a "bed & breakfast" guesthouse.

PROPOSAL

The applicant wishes to build a bungalow, 232 square metres in area, which would be serviced by a septic tank discharging to a raised percolation area. Water supply would be taken from the public [group water] mains.

The application includes a site suitability assessment. The application form states that the applicant resides with his parents and is employed in a car rental business in Killarney and Farranfore [airport].

Further information as summarised below was provided in response to a request by the planning authority:

- Contour map with existing levels and proposed floor level
- Landscape scheme
- Details of landholding (applicant's uncle) and location of the applicant's family home
- Location of sight-poles on site.

LOCAL REPRESENTATIONS

Michael J. Horgan wrote to express concerns regarding the special amenity zoning, proximity to the lake and risk of pollution and visual intrusion.

PRESCRIBED BODIES

An Taisce (Kerry association) are concerned that the proposed house would be close to the shores of Lough Leane and that the septic tank could contribute to the phosphorous loading on the lake.

DECISION

The planning authority decided to grant permission subject to fifteen conditions, the first of which restricts occupation to the named applicant for a period of seven years. The house is not to be used as holiday home.

APPEAL

In summary, the grounds of appeal are:

- The cumulative effect of the number of septic tanks [in the local area]
- The townland is overbuilt with inadequate screening and non-compliance with planting conditions
- Numerous decisions to grant permission for houses in the area have been overturned on appeal
- The zoning of the area as prime or secondary special amenity
- The road serving the area is sub-standard in relation to the traffic generated by development.

OBSERVATION

An Taisce (Kerry Association) comment that a previous application (510/98) for a house on the subject site was refused on amenity and public health grounds. The upper part of the proposed house will be visible from the lake unless screened by trees. The pollution risk is queried. If permission is granted, a condition restricting occupancy should be attached.

RESPONSE

There are no comments by the planning authority on the grounds of appeal.

HISTORY

192/97 Approval relating to erection of bungalow located in field north of the lake access road

866/98-08.108478

Refusal on appeal for house and septic tank on a site located on the track serving the old farmhouse and facing the subject site: applicants Caroline Sweeney and Conor Burke.

The site is located in an Area of Prime Special Amenity where a restrictive development control policy applies. These provisions are considered to be reasonable. Having regard to the location of the proposed development on a prominent elevated site in proximity to the shoreline of Lough Leane, it is considered that the proposed development would be unduly obtrusive, would seriously injure the visual amenities of the area and would contravene materially the objective of the planning authority.

510/98-08.108479

Refusal on appeal for house and septic tank on site forming part of the subject site applicant Aine Sweeney The site is located in an Area of Prime and Secondary Special Amenity, where a restrictive development control policy applies. These provisions are considered to be reasonable. The proposed development would be unduly obtrusive, prominent in views and would seriously injure the visual amenities of the area.

Having regard to the proximity of the site to the shoreline of Lough Leane and to the gravelly nature of the subsoil, the Board not satisfied that the site can be drained satisfactorily. The proposed development would be prejudicial to public health.

3175/99-08.121269

Appeal against decision to grant permission for bungalow and treatment unit on site on the shore and bounded by the lake access lane [The Board refused but decision is not available].

[No details of 99/1654 and 00/1907 shown on extract of register map which relate to land west of the subject site across the farm track]

1185/01

Extension to house and installation of treatment unit on site (one of three) located in field north of the lake access road

119/01

Permission for retention of various alterations to a house constructed under 1250/93 located in field north of the lake access road

917/91

Permission for extension to dwelling located to the south of the subject site and served by the track leading to the old farmhouse; applicant Michael Sweeney

3630/03-08/207385

Permission refused on appeal for house and treatment plant on site located to the rear of two houses served by the lake access road and about 100 metres west of the subject site on grounds that the proposed development would be contrary to the proper planning and sustainable development of the area and prejudicial to public health. The considerations include the location of the site in an area zoned “Rural Prime Special Amenity”, housing need criteria and undesirable urban-generated development in an unserviced rural area proximity to Lough Leane.

3856/04-08/214564

Permission refused on appeal for house and septic tank on site located just south of the subject site; applicant Paudie Sweeney. The considerations include existing and permitted development in the area, including the family landholding which contains a house and holiday home, development pressure in the area, criteria of housing need and the cumulative visual erosion of the lakeside setting. The refusal is based on serious injury to the amenities of the area and considerations of public health.

DEVELOPMENT PLAN

Settlement policy (3.1.5.) recognises that there is a need to maintain and strengthen rural communities throughout the county, to provide for the needs of local people to live in their own community, where possible on their own lands, and also to provide for the needs of people wishing to live permanently in rural areas.

It is an objective (SS3-3) to strengthen towns and villages; objective (SS3-4) is to provide for the needs of local people to reside in their own area and people who wish to reside permanently in rural areas, in order to maintain vibrant rural communities. Killarney is a designated Regional Centre. Fossa [4 kilometres distant] is a designated village (Table 3.1). The policy for villages is to promote their development as the focus of rural areas (SS 3-9).

It is an objective (ZL 11-1) to protect the landscape as a major economic asset as well as well as for its amenity value.

It is an objective (3.3.12) to provide that development in rural areas is not detrimental to the landscape qualities, heritage, ground water, surface water and other natural resources.

The subject site is located in area designated Prime Special Amenity Area. Rural Prime Special Amenity Areas (11.2.7) are those landscapes which are very sensitive and have little or no capacity to accommodate development. In these areas all development will be prohibited, other than especially exempted development. Residential development for people with an established local need in accordance with the provisions of Section 3.3.10 will also be considered.

The planning authority (3.3.10) shall consider proposals for a new individual dwelling as the primary place of residence on suitable sites where the applicant is a son or daughter of the landowner. Consideration will only be given to traditional landholdings, which have been in the applicant's or applicant's family's ownership for a period in excess of ten years.

The onus (3.3.11) will be on the applicant to satisfy the planning authority (with supporting documentation in relation to length of tenure) that the nature of the agricultural activity, with reference to the area of land and / or the intensity of its usage, is sufficient to support substantial part-time occupation.

GUIDELINES FOR SUSTAINABLE RURAL HOUSING

The area is defined in the Guidelines as under strong urban influence bordering a structurally weak area. In the latter, it is suggested that accommodating residential demand be subject to good practice in the protection of important landscapes and environmentally sensitive areas. Development permitted should continue to meet the requirements [of local need]. In areas under strong urban influence, the housing requirements of the rural community should be facilitated while urban-generated housing should be directed to zoned development areas in towns and villages.

ASSESSMENT

Permission has been refused for a number of applications for "one-off" houses in the area, including an application relating to part of the subject site. The considerations and reasons relate to undesirable urban-generated development in an unserved rural area, proximity to Lough Leane, development pressure in the area, the cumulative visual erosion of the lakeside setting and public health.

Zoning, Landscape and Settlement policy

In prime special amenity areas, current policy prohibits development. I would consider this policy reasonable, particularly in an area such as the Lakes of Killarney. Exceptions are allowable in the case of sons/daughters of landowners where a suitable site is available.

The applicant is the owner of the site, a gift from his uncle. The applicant's parents reside nearby, but do not farm. The applicant commutes to work in Killarney and Farranfore. In my opinion, the applicant does not meet the strict housing need criteria set out in the County Development Plan.

The excavated bank of the sandpit serves to screen most views of the site from the lake. From the north east, the upper part of the walls and roof would be visible. The landscape plan records in detail existing vegetation, mainly ash, holly, birch and willow and proposes the importation of topsoil to counter the nutrient deficient worked-out ground. Almost 60 native trees would be planted, including oak. The planting would an appropriate regeneration of what is almost a derelict site.

In land use terms, a forestry initiative, possibly on a semi-commercial basis, would be preferable to building development. Permission would serve to increase pressure on this sensitive area, which is poorly served by road. The “suburbanisation” of the western shores of the lake would detract from views from the higher ground in Tomies Wood where there are a number of footpaths.

Drainage Issue

The site is a disused sand quarry. The percolation area is 110 metres from the lakeshore. It would appear that some material has been deposited or regraded on parts of the site over a long period, which may account for the result of the percolation test (P value = 21.5); better than might be expected on sand/silt. The location of the trial hole as indicated is not where the percolation area is proposed. The applicant proposes a raised percolation area due to the presence of water at 1.9 metres in the trial hole. I note that the proposed floor level is 2.3 metres below ground level at the location of the percolation area, the effluent presumably being pumped. However no sump is shown on the site layout plan. In my opinion, the level of detail regarding the drainage arrangements is inadequate, given pollution issues in the lake as cited by the appellant and the problematic nature of the old sand workings.

REASONS AND CONSIDERATIONS

1. Having regard to the location of the site in an area zoned “Rural Prime Special Amenity” in the current County Development Plan and to the provisions in the Sustainable Rural Housing Guidelines published by the Department of the Environment, Heritage and Local Government in April 2005, it is considered that the applicant does not come within the scope of the housing need criteria to qualify for a house in this rural area and that the proposed development would give rise to undesirable urban-generated development in an unserved rural area under strong urban influence associated with Killarney. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site in close proximity to Lough Leane, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the proposed development would not give rise to a significant risk of pollution to the lake. The proposed development would, therefore, be prejudicial to public health.
3. The proposed development located in an area of Prime Special Amenity adjacent to Lough Leane, an area of natural beauty, would constitute an obtrusive element in the landscape and would seriously injure the visual and scenic amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

John O'Donnell
Inspector
14/03/07