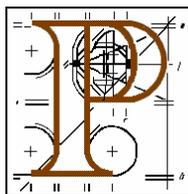


# An Bord Pleanála



## Inspector's Report

**PL 04.237859.**

**DEVELOPMENT:** The construction of a house, garage and associated site works at Knockane, Riverstick, Co. Cork

### **PLANNING APPLICATION**

**Planning Authority:** Cork County Council

**Planning Authority Reg. No:** 10 / 5647.

**Applicant:** Ken and Maxine Field.

**Application Type:** Permission.

**Planning Authority Decision:** Planning permission with conditions.

### **APPEAL**

**Appellants:** 1. John G. and Mrs Regina Allen.  
2. John Allen.

**Type of Appeal:** Third Party.

**Observers:** None.

**DATE OF SITE INSPECTION:** 16<sup>th</sup> December 2010.

**INSPECTOR:** Derek Daly

## **1.0 Introduction**

I have read the file, inspected the site, during which I took photographs and these are included at the end of the report, as Appendix 1, considered the grounds of appeal and assessed the proposal in the context of the proper planning and sustainable development of the area.

## **2.0 Site location and description.**

- 2.1 The appeal site is located in the townland of Knockane in a rural area approximately 21 kilometres southwest of Cork City, 6 kilometres south of the village of Halfway, 8 kilometres of the town of Kinsale and 5 kilometres west of the village of Riverstick in County Cork. The site is relatively elevated in a local context and has frontage onto a narrow local road, which is located off the R607 Halfway Kinsale Regional Route at the Con's Cross Roads. The site is approximately 0.4046 hectares in area and there is rise in level in a northerly direction on the site.
- 2.2 At the junction there is a farmyard and buildings adjoining the narrow road.
- 2.3 The local road defines the western boundary of the site comprising of a sod and stone ditch. The eastern boundary adjoins agricultural lands and the northern boundary adjoins a dwelling site. The site is triangular in configuration
- 2.4 There are also a number of dwellings randomly along the local road network in particular along the regional road.

## **3.0 Proposed Development.**

- 3.1 The proposed development as submitted on the 2<sup>nd</sup> of July 2010 was for a development comprising of the construction of a dwellinghouse, garage and associated site works.
- 3.2 The proposed dwelling is of modern design and construction and is single storied with provision for attic storage with a maximum height to ridge level of a stated 7.019 metres. There is variation in the roof ridge and the dwelling has an L-shaped footprint. The dwelling has a stated area of 202 sq. metres.
- 3.3 The garage is located to the north of the proposed dwelling with a ridge roof and a maximum stated height of 5.653 metres and an approximate floor area of 48 sq. metres.
- 3.4 The proposed means of water supply is a bored well located in the northwest of the site. Foul effluent is disposed off in an effluent treatment unit with associated percolation area located to the south of the proposed dwelling.
- 3.5 The proposed means of access is onto the local roadway fronting the site and is located towards the south of the site.

- 3.6 Documentation submitted with the application refers to the planning history and the issues raised are addressed in the current proposal.
- 3.7 Revised details were submitted by the applicants on the 28<sup>th</sup> of September 2010 in relation to the proposed access to indicate additional sightline visibility at the entrance.

#### **4.0 Planning History.**

- 4.1 The site has a planning history including three recent applications P.A. Ref. No. 09/5986, 08/4363 and 04/6620 where applications for a dwellinghouse, garage, septic tank and associated works were refused to the current applicants.

#### **5.0 Planning Authority and other Reports.**

- 5.1 The report of the area engineer dated the 10<sup>th</sup> of August 2010 has no objections subject to the provision of satisfactory sightline visibility and the 50 metres provided is below the required standard of 80 metres.
- 5.2 The planning report dated the 10<sup>th</sup> of August 2010 refers to the planning history, to the density of residential development in the area and that this proposal would appear to represent the seventh dwelling on the original holding, that the applicants in purchasing the site did so when there was a sterilisation agreement by way of condition, that the applicants comply with objectives RCI 9-2 and 9-3 of the 2009 county plan but that issues arising in the previous refusal are not addressed and refusal was recommended. This recommendation was endorsed by the SEP.
- 5.3 The planning liaison officer in a report dated the 7<sup>th</sup> of October 2010 recommended planning permission indicating that the area engineer confirmed 80 metres sight distance can be achieved.

#### **6.0 Planning Authority's Decision**

- 6.1 The Planning Authority decided to grant planning permission for the development subject to 16 conditions. The conditions largely relate standard engineering requirements with the provision of an occupancy condition (No.2).

#### **7.0 Appeal Submissions**

##### **7.1 Third Party Appeals.**

- 7.2 The appellants John G and Regina Allen in the grounds of appeal state,
- The appellants refer to the narrow nature of the lane, which is no wider than a single vehicle and that it is necessary to drive through a working farm yard.
  - The lane cannot sustain additional traffic.

- There is a surplus of one off housing in the area and there are large amounts of housing available in the village of Riverstick
- Reference is made to the previous refusals on the site.

7.3 The appellant John Allen in the grounds of appeal states,

- The appellant resides on the road, which is a narrow road and the proposal has the potential to interfere with agricultural activities on the lane.
- The revised drawing to improve the sightline visibility has a narrower width of road than a previous refusal on the site.
- The appellant refers to the planning authority accepting sufficient links with the area but this does appear to be the case and there is doubt in relation to complying with the provisions of the county development plan.
- The issue of traffic safety does not appear to be addressed and to achieve 80 metres will require additional third party lands.
- The planning reports refer to concerns, which are not addressed.

## **8.0 Responses to Grounds of Appeal**

### **8.1 Planning Authority Response.**

8.2 The planning authority in a submission dated the 30<sup>th</sup> of November 2010 indicates,

- The applicants have in a previous application (09/5986) indicated that they have rented property in the area since 2002 and qualify as an exception to the RHCZ settlement policy.
- The area engineer has indicated that the applicants can achieve satisfactory sightline visibility.
- There is no objection to the design of the dwelling.
- The social circumstances of the applicants were taken into account.
- While density was of concern the deciding officer considered that the proposed development would not seriously injure the amenities of the area.

### **8.3 First Party Response.**

8.4 The applicants in a response to the grounds of appeals indicate,

- The road was assessed by the council and considered to be of adequate width.
- The volume of traffic will not adversely impact the capacity of the road or interfere with rural activities.
- The development will widen the road and provide a passing bay.
- The applicants have demonstrated a genuine local need have lived in the area since 2002 and their children attend the local school.
- The planning authority is satisfied that sightlines can be met and all issues are addressed.

## **9.0 Policy.**

### **9.1 National Guidelines.**

#### **9.1.1 Guidelines on Sustainable Rural Housing 2005.**

9.1.2 The site is located in a rural area and in the context of the Guidelines paragraph 3.2 would be in an area would be defined as rural areas under strong urban influence. This is largely due to the relative proximity and ease of access to Cork city and the general metropolitan area.

9.1.3 These areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

9.1.4 The guidelines refer to the need for a development plan approach and having defined the rural area types in the development plan, asset out in the NSS, planning authorities must then tailor policies that respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas and that detailed development plan objectives and policies relating to rural housing, each development plan should address the issue of rural settlement within the context of an overall settlement strategy, which will normally set out an overall vision for the development of both urban and rural areas.

9.1.5 The Guidelines differentiate between rural and urban-generated housing. The guidelines refer to rural generated housing and to sustaining and renewing rural communities, to accommodating people of a rural area in their area of origin and in section 2.4 to tailoring policies to local circumstances. Section 3.2.3 refers to rural generated housing and there is reference to “persons who are an intrinsic part of the rural community” on page 22 and there is also reference in this regard to “members of an established rural community, and persons who wish to return to reside near other family members or to care for elderly family members”. There is also reference to working in rural areas including full and part time farming.

9.1.6 In summary, the Guidelines provide that people who are part of the rural community should be facilitated by the planning system in all rural areas. The guidelines also indicate to enable planning authorities to take a positive approach to applications from such persons in the areas referred to, in circumstances where permission might otherwise be refused, it is reasonable to expect that where an applicant is given planning permission for a rural housing proposal on the basis of having an established link to the rural area, that the grant of planning permission makes it clear that, save for exceptional circumstances, the dwelling shall be occupied for a specified period by the applicant, members of the applicant’s immediate family or by any other person who has similar links.

## **9.2 Cork County Development Plan.**

- 9.2.1 The current Development Plan is the Cork County Development Plan 2009, which came into operation on the 6<sup>th</sup> of February 2009.
- 9.2.2 The site in relation to specific designations is located with the Rural Housing Control Zone.
- 9.2.3 Chapter 2 of the plan relates to Strategy and essentially in relation to the overall county and rural areas in particular follows the approach as set out in the *Guidelines on Sustainable Rural Housing 2005* in identifying the four rural types and the need for sustainable rural development and differentiating between rural and urban-generated housing.
- 9.2.4 Chapter 3 of the plan relates to Settlements identifying a hierarchy of settlements throughout the county and the need to development strong sustainable settlements.
- 9.2.5 Chapter 4 of the plan relates to Rural, Coastal and Islands and focuses on areas outside of settlements restating the four rural types in section 4.4. In section 4.6 relating to sustainable rural housing there is reference to a period of more than seven years to demonstrate a local connection to the area. Section 4.6.1 also refers to policies in relation to rural housing are tailored to reflect the varied demands, pressures and circumstances that exist in each of the four strategic planning areas of the County and the provisions of the Cork Area Strategic Plan and North and West Cork Strategic Plan. Central to these policies is the key objective of sustaining rural communities and accommodating rural housing needs within rural areas where this is possible in accordance with the principles of proper planning and sustainable development.
- 9.2.6 The site is within the County Metropolitan Strategic Planning Area, which seeks to consolidate the development of the city and protect the identity of the city and the Metropolitan Towns within the established Greenbelt setting. In the rural areas outside the Greenbelt, the Rural Housing Control Zone is being maintained with strong controls on commuter housing.
- 9.2.7 Section 4.9 refers to the Rural Housing Control Zone and the appeal site is located within this zone.
- 9.2.8 The purpose of the RHCZ is primarily to restrict individual urban-generated houses in such areas. By implementing strict controls in the Rural Housing Control Zone, it will have the effect of protecting the character of the rural areas and allowing rural people to have relatively easy access to the available sites in their local area, thus helping to maintain important family ties.
- 9.2.9 In support of this objective RC1 9-2 indicates,
- (a) It is an objective to recognise the particular development pressures for large numbers of urban generated commuter housing in the

countryside, outside the Greenbelt, but within easy commuting distance of the city

- (b) It is an objective to maintain the Rural Housing Control Zone with strict controls on commuter housing, that covers those rural areas outside the Metropolitan Area that are under pressure for development
- (c) It is an objective to discourage strongly new individual housing from being located within the Rural Housing Control Zone (except within established villages or village nuclei). This restriction is relaxed in principle for local rural housing needs in accordance with objective RCI 9-3”

9.2.10 The needs of rural communities are recognised in sections 4.9.3 and 4.9.4 and restated in objective RCI 9-3 as.

“(a) It is an objective to recognise the special needs of rural communities and, in particular, the genuine aspirations of people in rural areas, outside the Metropolitan Cork Green Belt, who have lived in a rural area for seven years or more and wish to live and / or work in their local area.

(b) It is an objective in such circumstances, to accommodate their individual housing needs in their local area subject to a suitable site being available and normal proper planning and sustainable development considerations”.

9.2.11 In such areas, where there are high levels of pressure for development of this kind, it is considered that the priority must be given to the full time housing needs of local people who live in the area.

### **9.3 Local Area Plan.**

9.3.1 The Bandon Electoral Area Local Area Plan adopted in 2005 includes restates the overall strategy as stated in the county plan and also plans for a number of settlements identified as part of an overall hierarchy. The site is not within any development boundary of any settlement identified in the hierarchy of settlements in the area. Centres such as Kinsale, Innishannon, and Riverstick are identified with lands for new housing development. Halfway and Ballymartle are also referred to but have limited scope for development. In the Carrigaline Electoral Area Local Area Plan, Ballinhassig is an identified settlement.

## **10. Assessment.**

10.1 The primary issues in relation to this appeal relate to national and development plan policy, and considerations specific to the site.

### **10.2 National and Development Plan Policy.**

10.2.1 The relevant provisions are outlined in section 9 of this report

### **10.3 Settlement policy / housing need.**

10.3.1 The Guidelines on Sustainable Rural Housing 2005 distinguishes between urban generated and rural generated housing in rural areas and refers to rural

generated housing and to persons who are an intrinsic part of the rural community and to members of an established rural community, and persons who wish to return to reside near other family members.

10.3.2 Specifically the Guidelines in relation to persons who are an intrinsic part of the rural community indicates,

“Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence. Returning emigrants who lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members, or to retire should be also be accommodated”.

10.3.3 The guidelines also refer to the need to tailoring policy to meet different rural areas.

10.3.4 The site is located in a rural area and in the context of the Guidelines paragraph 3.2 would be in an area would be defined as a rural area under strong urban influence and that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas.

10.3.5 The guidelines refer to the need for a development plan approach and having defined the rural area types in the development plan, as set out in the NSS, planning authorities must then tailor policies that respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas and that detailed development plan objectives and policies relating to rural housing, each development plan should address the issue of rural settlement within the context of an overall settlement strategy, which will normally set out an overall vision for the development of both urban and rural areas.

10.3.6 In relation to the 2009 County Plan strategy, the plan essentially reiterates the policies outlined in the guidelines and sets out criteria for consideration of housing outside of settlements with the overriding presumption to strengthen and support existing settlements and also follows the approach set out in the rural housing guidelines. The plan also defines an overall strategic approach in relation to the county and recognising the different responses required has defined policies specific to the Cork Metropolitan Area and defining different policies within the area and these are set out in section 9 of this report.

10.3.7 The needs of rural areas are recognised generally and also within the greenbelt and the Rural Housing Control Zone and that provision must also be made to

sustain communities by allowing people to build in their local area on suitable sites, to recognise the special needs of rural communities and, in particular, the genuine aspirations of people in rural areas, who wish to live and / or work in the area in which they were brought up. The general presumption is therefore to consider full-time occupancy.

10.3.8 There is however also an overriding objective to discourage strongly new individual housing from being located within the Rural Housing Control Zone (except within established villages or village nuclei) and that this restriction is relaxed in principle for local rural housing needs in accordance with objective RCI 9-3.

10.3.9 The overall approach as set out in the development plan is reasonable and largely follow the general principles of the Guidelines and the issues to be addressed relates, I consider, to whether a local need is established and notwithstanding any establishment of need is the development appropriate to the site.

10.4 Zoning provisions.

10.4.1 The site is within the Rural Housing Control Zone and the purpose of the RHCZ is primarily to restrict individual urban-generated houses in such areas to protect the character of the rural areas and allowing rural people to have relatively easy access to the available sites in their local area, thus helping to maintain important family ties.

10.4.2 In support of this zoning objective RCI 9-2 indicates has as an objective to maintain the Rural Housing Control Zone with strict controls on commuter housing, that covers those rural areas outside the Metropolitan Area that are under pressure for development and to discourage strongly new individual housing from being located within the Rural Housing Control Zone (except within established villages or village nuclei). It is also indicated that this restriction is relaxed in principle for local rural housing needs in accordance with objective RCI 9-3 and the needs of rural communities are recognised in sections 4.9.3 and 4.9.4 and restated in objective RCI 9-3.

10.4.3 In RHCZs therefore I consider there is a presumption against development therefore against urban generated development and that the priority must be given to the full time housing needs of local people who live in the area. The overall approach as set out in the county development plan is reasonable, is part of an overall settlement strategy tailoring policy to meet different rural areas as identified in the Guidelines and offers a plan led approach to an area in close proximity to Metropolitan Cork where there is pressure in particular for urban generated rural development.

10.4.4 The plan does however allow consideration in all rural areas including RHCZs for the needs of local people in rural areas.

10.4.5 In relation to the current proposal the applicant in the appeal submission has indicated that the house is for full-time permanent occupation. The applicants

purchased the site with the benefit of a planning permission but subject to an occupancy condition. The applicants have indicated that they have rented property in the Ballinhassig area since 2002 and their children attend local schools. Mr Field is employed by a roofing contractor in Ballinhassig.

10.4.6 The basis of rural need and to build a dwelling on the appeal site essentially appears to be specifically related to living in a rural area for in excess of seven years as set out in objective RCI 9-3(a) of the plan. The applicant has not presented any other specific criteria as outlined in the rural housing guidelines such as returning to the area or working in farming.

10.4.7 The applicants have demonstrated a level of connection to the local area which I consider is tenuous and on balance would not appear to be what the guidelines refer to as persons who are an intrinsic part of the rural community or members of an established rural community.

10.4.8 I would also consider that there are alternative locations within the general area where there are alternative locations for new housing.

10.5 Considerations specific to the site.

10.5.1 In general terms the presence of a large number of houses in the area is an indication of the development pressure arising from the metropolitan Cork area and the capacity of areas under development pressure is limited and the overall rural setting should be maintained.

10.6 Siting layout and design.

10.6.1 The site is relatively elevated in a local context but the scale and design of the dwelling would not represent an unduly obtrusive feature when viewed from the wider area. I would therefore have no objection to the design as submitted.

10.7 Traffic.

10.7.1 The appeal site fronts onto a narrow public road less than four metres in width where there is inadequate passing space for two vehicles. The site is also located on the inner edge of a curve / gentle bend on the road and the road had a general poor alignment...

10.7.2 The site therefore presents issues in relation to the provision of sightline visibility and obstruction to vehicular movements on the road arising from the generation of additional traffic movements though I would acknowledge that traffic volumes are likely to be low and also slow moving given the nature of the road.

10.7.3 Previous applications were refused on the basis of traffic safety and in the current proposal a drawing was submitted on the 28<sup>th</sup> of September 2010 indicating a revised site layout specifically relating to the relocation of the front boundary ditch to form a splay to provide approximately 70 metres sightlines in both directions from a point approximately 4 metres back from

the existing road carriageway. I would have no objection to the revised proposal though it may not provide 70 metres in a southerly direction but in the context of the road the level of sightline proposed to be provided is satisfactory. The recessed roadside boundary will also provide passing movement, which is currently unavailable. It would be imperative however that a new sod and stone ditch be erected to maintain rural amenity.

## 10.8 Services

10.8.1 It is proposed to provide potable water by a borehole and I would have no objections to the proposals as submitted.

10.8.2 In relation to the disposal of foul effluent a site characteristic report is submitted in accordance with EPA guidance and a wastewater treatment plant for a PE of 6 is proposed with provision for a percolation based on the findings of the site tests. Based on visual inspection of the site I would have no objections to the proposals as submitted.

10.9 Notwithstanding the satisfactory nature of the provision of services, in the context of the site's location in a RHCZ, the nature of the road network and the existing scale of residential development I would have concerns in relation to the provision of additional housing in an area unserved by public facilities.

## 11.1

### **Conclusion and recommendation.**

11.1 Having considered the contents of the application, the decision of the planning authority, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be refused.

## 12.0

### **Reasons and considerations**

1. The site is located in a "Rural Housing Control Zone", as identified in the current Development Plan for the area, where it is the policy of the planning authority to strongly discourage new housing development except for local housing needs. The location lies in an area under "under strong urban influence" in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April 2005. Having regard to the planning history of the area, it is not considered that the applicants come within the scope of the rural housing need criteria as set out in the Guidelines. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature and scale of existing and permitted development in the area in an area served by a poor road network it is considered that the proposed development would constitute an excessive density of development in a rural area where there is an absence of public services and which is served by an inadequate public road network. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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**Derek Daly**

**3<sup>rd</sup> January 2011**

**Inspectorate**