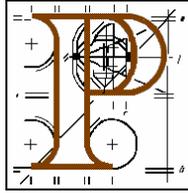

An Bord Pleanála



Inspector's Report

Ref.: PL04. 238846

Development: Retention of detached boiler house / store (constructed in lieu of domestic garage granted under planning reference no. 04/7187) and permission for the following a) 1 No. velux rooflight to front elevation of existing dwelling house b) alteration of site boundaries c) detached dwelling house for use ancillary to existing dwelling d) a detached building incorporating a swimming pool, gym & plant room for domestic use and e) 1 No. 20m domestic wind turbine.

Gortroe, Bantry, Co. Cork.

PLANNING APPLICATION

Planning Authority: Cork County Council

Planning Authority Ref.: 11/00039

Applicant: Richard & Jackie Brennan

Type of Application: Permission for Retention & Permission

Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: Third Party

Appellants: Helen Connolly & Others

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 23rd June, 2011

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located on the western side of the Mealagh Valley in the rural area of Gortroe, Co. Cork, approximately 2.8km southeast of the village of Ballylickey and 5.3km northeast of Bantry town. The surrounding area is typically rural and is characterised by a rolling landscape interspersed with an increasing prevalence of one-off housing. The site itself is located away from the public road and is accessed via a private laneway which extends from a narrow local road to serve two nearby dwelling houses and adjacent farmlands. It has a stated site area of 0.44 hectares, is irregularly shaped and is presently occupied by a dormer bungalow and associated structures including a boiler house and a domestic shed. To the south and east the site topography falls away from the existing dwelling house with a noticeable difference in levels evident. To the north and west the site is bounded by mature planting whilst to the east and south it is defined by low hedging.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the following:

- a) The retention of a detached boiler house (floor area: 29.23m²) purportedly constructed in lieu of a domestic garage previously permitted under PA Ref. No. 04/7187.
- b) The insertion of 1 No. additional rooflight positioned in a central location over the porch area within the front elevation of the existing dwelling house.
- c) Alteration of the site boundaries.
- d) The construction of a detached single storey dwelling house with a stated floor area of 29.23m² and an overall ridge height of 4.77m for purposes ancillary to the use of the principle dwelling house. The proposed dwelling is of a conventional design based on a simple rectangular plan and consists of an en suite bedroom and a combined kitchen / dining / living area.
- e) The construction of a detached single storey structure (floor area: 161.66m²) designed to house an indoor swimming pool, a gym area and an associated plant room which will be used for domestic purposes ancillary to the enjoyment of the existing dwelling house. The proposed building is of a simple rectangular design and incorporates a flat-roofed construction which will be topsoiled and seeded. Externally, its visible elevations will be clad in selected stone of a neutral colour tone. It will necessitate excavation into the hillside and will be positioned perpendicularly to the existing dwelling house.
- f) The erection of 1 No. domestic wind turbine with a hub height of 17.26m and a rotor blade diameter of 5.5m.

3.0 RELEVANT PLANNING HISTORY

On Site:

PA Ref. No. 04/7187. Was granted on 3rd February, 2005 permitting Richard Brennan permission for a dwelling house and garage.

PA Ref. No. 051788. Was granted on 22nd June, 2005 permitting Richard Brennan permission for the construction of a single storey extension to the dwelling permitted under Reg. No. 04/7187.

Other Relevant Files:

PA Ref. No. 092118. Application by Mort O'Sullivan for permission for the demolition of an existing extension to a dwelling house and the construction of a new two storey extension to the eastern and southern elevations of the existing dwelling house at Derryconnery, Glengarriff, Co. Cork. This application was withdrawn.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

Following the receipt of a response to a request for further information, on 4th April, 2011 the Planning Authority issued a notification of a decision to grant permission / permission for the retention of the proposed development subject to 16 No. conditions. These conditions are generally of a standardised format and relate to issues including the provision of a potable water supply, the repair of damage to the public road, noise control, waste management and development contributions, however, the following conditions are of note:

- Condition No. 2 – Requires the omission of the proposed ancillary dwelling unit and the submission of a revised site layout plan detailing same for the approval of the Planning Authority, prior to the commencement of development, in order to safeguard the amenities of the area.
- Condition No. 4 – States that the proposed pool / gym is to be used solely for domestic purposes incidental to the enjoyment of the main dwelling house and that the use of same shall not be changed without the benefit of planning permission.
- Condition No. 8 – States that the site is to remain in single ownership and is not to be subdivided.
- Condition No. 9 – States that the proposed wind turbine is to be installed in accordance with the manufacturer's requirements.
- Condition No. 15 – States that a noise survey shall be carried out by the developer if so required by the Planning Authority

4.2 Internal Reports:

Area Engineer: Recommends a grant of permission subject to conditions.

4.3 Prescribed Bodies / Other Consultees:

None.

4.4 Objections / Observations:

A total of 2 No. submissions were received from the appellants, the contents of which are reiterated in the grounds of appeal.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- It was a condition of the original grant of planning permission issued for the existing dwelling house on site under PA Ref. No. 04/7187 that *'The site shall*

be landscaped in accordance with a comprehensive scheme of landscaping'. It is submitted that to date there appears to have been no attempt to landscape the site and, therefore, a bond pertaining to the completion of the landscaping should be lodged with the Planning Authority prior to any decision to grant permission for retention.

- With regard to the proposal to alter the site boundaries the Board is requested to clarify this matter further in order to demonstrate that the applicants are not exceeding the limits of their property as per their registered folio map.
- According to the terms of the original sale agreement pertaining to the subject site between the applicant (Mr. Richard Brennan) as purchaser and the vendor (Ms. Noreen Connolly), Mr. Brennan only retains a right of way for a single dwelling house and he is not entitled to subdivide the site to provide a second dwelling house and to access same via this right of way.
- It is considered that the provision of a second dwelling house would constitute over-development of the subject site. No reason has been provided for the provision of this second dwelling house and it would appear to be superfluous to the applicant's needs and, therefore, the appellants welcome the decision of the Planning Authority not to grant permission for this element of the proposal.
- It is considered that neither the applicant nor the Local Authority have provided an adequate explanation as to how the disposal of water from the proposed swimming pool will be achieved without causing flooding of the adjoining low-lying lands in the ownership of the appellants. In this respect it is submitted that the subject site is located upon a large shelf of rock with negligible soakage properties and therefore it is suggested that the proposed soakaway will be inadequate. Accordingly, the appellants are seeking conclusive and independent confirmation as to the disposal of the water and that it will not result in flooding of adjacent land.
- Although the Area Engineer has stated that *'The applicant proposes to use an alternative means of treating the water and does not intend using chlorine'* there is no mention of same in the original application or of any method of water treatment. It would appear that all submissions concerning the nature of the water treatment were not included in the application documentation and therefore were not made available to the public.
- There are concerns given the location of the proposed pool-house and its associated soakaway to adjacent agricultural lands that the proposal will result in the contamination of livestock drinking water. The appellants are disappointed that the use of a non-chlorinated system was not made a condition of the grant of planning permission.
- There are concerns that the siting of the proposed development so close to the property boundary in a location which will require significant rock-breaking will result in extensive visual scarring of the landscape.
- It is considered that the erection of the proposed wind turbine is in direct contravention of *Policy ENV 2-9: General Views and Prospects* of the Development Plan and that it will have a negative visual impact on the landscape.
- The statement in the Planner's Report that *'the site and the area in general would be able to visually accommodate a domestic wind turbine'* is rejected. The proposed turbine is at the upper limit of what would be considered a

‘domestic’ turbine and is unsuited to this location. No other turbine of the scale proposed is visible in this valley or in the surrounding area.

- The data supplied with regard to the operational noise of the proposed turbine is disputed in that it is not specific to the turbine proposed as it does not state the height of the turbine to which the data relates. Neither was it made clear that the maximum noise output data is unavailable according to the information supplied by the manufacturer. The figure supplied for a maximum noise level of 45dB(A) at 8m/s at a distance of 60m does not detail the height of the tower to which this measurement applies. According to the figures of Evance Wind Turbines Ltd., as taken from Figure 2 – AMWS noise immision summary, at an average wind speed of 8m/s a turbine of 12m has a slant distance of c. 150m [45dB(A)] whilst a 15m tower has a slant distance of 170m [45dB(A)]. Accordingly, it is submitted that it is clear that a tower of 18m will have an increased slant distance and as the property of Appellant No. 2 (John Belcher & Fleur Hindley) is c. 119m from the proposed turbine it would fall well within the slant distance for the 45dB(A) limit for a 12m high tower. In addition, Appellant No. 1 (Helen Connolly) would also possibly fall within the slant distance at 45dB(A) given that the turbine will be 18m in height.
- In addition to the foregoing, it is evident from the Test Summary provided by the turbine manufacturer that there is no recorded data for noise levels when the wind speed is in excess of 11m/s and in this respect it is submitted that wind speeds above 11m/s are not uncommon at the site given its exposed location. Furthermore, it should be noted that it appears that the manufacturer’s recommendation to assess the site suitability was not adhered to.
- It is submitted that permission was granted for the subject proposal in the absence of sufficient evidence regarding the noise emissions specific to the proposed turbine. In addition, the appellants property would be at a distance where the noise emissions would exceed 45dB(A). Accordingly, an independent site specific noise survey should be carried out in order to determine the actual noise levels expected to be generated.
- There are concerns as regards the impact of the proposed turbine in terms of the stress and disturbance caused to livestock on adjoining lands.
- The proposed development, with specific reference to the site preparation works required for the proposed swimming pool, will result in an excessive loading being placed on the private access road serving the site in addition to the dwelling house of Appellant No. 2 which is located immediately below and adjacent to the access road. The increase in traffic consequent on the proposed development, with particular reference to construction traffic associated with the removal of large quantities of rock from the site, would place unnecessary stress on the roadway and would pose a risk of structural damage to the adjacent dwelling house. In the event of a grant of permission a condition should be imposed whereby all waste and broken rock etc. should be retained on site with construction traffic to be kept to a minimum.
- The overall nature and condition of the public road leading to the site is poor as a result of the increased level of development in the surrounding area.
- It is unclear as to how Condition No. 5, which concerns the repair of any damage to the public road, will be enforced. Furthermore, it is submitted that a

similar provision should have been included in respect of the private access road.

- The applicants have indicated that it is their intention to sell the subject property in the event of a grant of permission and, therefore, it is questioned whether it is their intention to market the property as a potential commercial concern e.g. as a B&B (with a swimming pool), as the surrounding road network would not accommodate any increase in traffic consequent on a non-domestic use.
- It is considered that the proposed development is contrary to the provisions of the rural design guidelines.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

- States that it has no further observations in respect of the subject appeal as the issues raised were addressed in the original Planner's Report.

6.2 Response of the Applicant:

- In response to the appellants comments regarding landscaping of the subject site, the Board is advised that an extensive programme of planting has been undertaken on site and in this respect reference is made to the accompanying site layout plan which illustrates the location of tree planting carried out on site.
- The alteration of the site boundaries is necessary in order to correct a discrepancy between the boundaries detailed in PA Ref. No. 047189 and those of the lands as transferred to the applicant from the then landowner in 2005. In this respect the Board is referred to the accompanying copies of the original site layout boundary for PA Ref. No. 047178 and the land transfer map.
- With regard to the proposal for an ancillary dwelling house, and in the interests of clarifying the need for same, it is submitted that a previous planning application was lodged with the Council under PA Ref. No. 092118 for the renovation and extension of an existing dwelling house, which included for the provision of an en suite bedroom designed with full wheelchair facilities for the use of Ms. Jackie Brennan's aunt who would require additional care and support in the future, however, due to the absence of a sufficient site area to accommodate a new percolation area in accordance with EPA guidance this application was subsequently withdrawn.

Prior to receiving notice of the subject appeal the applicant held pre-planning consultations with the Planning Authority and submitted revised proposals which took account of Council's concerns regarding the size and design of the proposed ancillary dwelling house. In this respect the structure was redesigned with an increased floor area and as a unit attached to the existing dwelling house to form an extension to same as opposed to a standalone unit. Accordingly, in the event the Planning Authority were to entertain a grant of permission for the ancillary dwelling the applicant is amenable to submitting a revised design to the satisfaction of the Council.

- In respect of the proposal to empty / drain the proposed swimming pool, the Board is referred to the depth of a trial hole excavated at the location of the

proposed pool percolation area and that rock was encountered at a depth of 1.7m below ground level.

- Essential maintenance of the proposed pool would only require the pool water to be emptied every 2-3 years in order to carry out remedial works on the pool wall tiles. The constant filtration of the fresh water would not necessitate changing the entire water volume, but approximately 300 litres every 6-12 months. When the pool does require emptying the fresh water will be released into the percolation area over a number of days to allow the ground to absorb the water at a suitable rate (ideally during the summer months). Furthermore, there are a number of companies available which provide pool draining / water disposal services.
- In terms of the appellants concerns regarding the treatment of the pool water, the applicant is amenable to a condition in any grant of permission that the pool use fresh water only with no use of chlorine or other chemicals.
- It is considered that the appellants concerns regarding the possible contamination of drinking water for livestock is irrelevant as there is no such supply in the vicinity of the property bounding that area proposed for the pool soakaway.
- From past experience on site the rock-breaking process would last approximately 3-5 days and breaking times would be restricted to 09:00-17:00 hours, Monday to Friday, so as to avoid nuisance to neighbours.
- It is submitted that any scarring of the landscape arising from the rock-breaking process would be temporary and once the pool building is erected and stone faced it will blend into the landscape. Furthermore, the roof area will be grassed and visitors to the property will find it difficult to view same given its location. In addition, it is considered that neither of the appellants will have a direct line of sight towards the proposed pool building.
- In respect of the appellants comments regarding the possible noise pollution emanating from the proposed wind turbine, it should be noted that the noise levels referenced by the manufacturer are at a wind speed of 8m/s which, according to the Beaufort Scale, is equivalent to a fresh breeze where small trees in leaf begin to sway and crested wavelets form on inland waters.
- Data obtained from the Irish Meteorological Service indicates that over the past 60 years or so the average wind speed in Ireland has not exceeded 6m/s. In addition, statistics available from 'Windfinder.com' indicate that the highest wind speed taken over an average of c. 4 years was recorded in December and measured 10.8m/s whilst the annual average in Cork over the same period of time was 9.26m/s. Given the foregoing information, it is submitted that the information provided by the wind turbine manufacturer indicates that a wind speed of 9.26m/s at a distance of 120m will result in an acoustic noise level of c. 40.56dB(A). Even with a wind speed of 11.5m/s the calculated noise level for the turbine at 120m would still be less than the Council requirement of 45dB.
- The Board is referred to information available from SEAI with regard to noise for wind farms which states the following:

'Virtually everything with moving parts generates sound, but technical advances have greatly reduced noise levels for wind turbines.'

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- *The turbine blades passing through the air generate sound. This aerodynamic sound is minimised by careful attention to the design and manufacture of the blades.*
 - *The sound made by the gearbox and generator is minimised through efficient engineering.*
 - *Any remaining noise is contained within the nacelle by sound insulation and isolation materials.*

Measured noise levels of approximately 50dB(A) are expected at the base of a modern turbine, equivalent to noise levels in a typical busy office environment'.

- It is considered that the accompanying site section, which illustrates the proposed turbine relative to the existing house, shows how the appellants illustration of the turbine has been greatly exaggerated.
- It is submitted that the visual impact of the proposed turbine has been overstated by the appellants given the presence of 30m and 40m high pylons in the surrounding area. In this respect the Board is referred to the accompanying photographs of a 'mock' turbine erected on site and the existing electrical pylons in the area.
- It is of relevance to note that there is a commercial wind farm at the end of the the valley and that each of the turbines within same has a blade diameter of 150m.
- The increase in traffic in the area as referenced by the appellant has been as a result of an increase in the number of dwelling houses constructed in recent years. In this respect it should be noted that the family of one of the appellants sold sites to facilitate the construction of those dwelling houses.
- In reference to the increase in traffic on the access road serving the proposed development site (and adjacent properties), whilst delivery lorries would be expected during construction, topsoil and rock will not be removed from the site and will instead be used to create hard standing areas and the percolation area for the pool.
- With regard to the appellants reference to the potential for a retaining wall to collapse consequent on an increase in traffic associated with the proposed development, it is of relevance to note that no such concerns were raised during development works undertaken by Appellant No. 1 nor were any objections made to other planning applications in the area.
- To date the access road has been used to transport building materials for the construction of 2 No. dwelling houses and 2 No. extensions without any adverse effects on the retaining wall.
- With regard to the appellants concerns regarding potential damage to the private access road it is the applicants intention to share the on-going maintenance of same with the appellants.
- The decision of the Planning Authority to omit the ancillary dwelling house is accepted given that the applicants did not adequately detail their reasons for same.
- The proposed wind turbine would form an extension of the applicants 'green' philosophy given their existing use of a wood pellet boiler and a wood burning stove.

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- The proposed swimming pool is for domestic purposes only and the absence of any toilet facilities / changing rooms would make a commercial venture impossible.
 - The appellants suggestion that the property will be marketed as a potential commercial concern such as a B&B is rejected.
 - With the regard to the appellants comments concerning the sites location in a predominantly rural setting it should be noted that there are 18 No. dwelling houses within 0.75km of the shared access road with a further dwelling under construction and permission having been granted for two other sites. Accordingly, it is suggested that the area is not as 'agricultural' as implied by the appellants.

7.0 RESPONSE TO THE CIRCULATION OF THE APPLICANT'S SUBMISSION

7.1 Response of the Planning Authority:

- Reiterates that the Area Planner has no further comments as the issues raised were addressed in the original Planner's Report.

7.2 Response of the Appellants:

- It is reiterated that the original agreement of sale only allowed for the development of one dwelling house on the applicants lands.
- Clarification is sought as regards the applicants intentions as the application originally stated that it was intended to sell the property whereas the response to the grounds of appeal refers to the housing of a sick relative.
- It is considered that the evidence submitted as regards the drainage of the proposed swimming pool and the associated soakaway is inadequate. An exchange of 300 litres of water per year appears very small and in the absence of chlorination it is difficult to see how such a small volume of water would be sufficient to keep the pool clear for a year. The applicant has not carried out infiltration tests pursuant to BRE:365 and, therefore, these tests should be completed by an independent source in order to clarify that the site can accommodate the quantities of water involved.
- The appellants farmland, which is located below the soakaway proposed for the swimming pool, remains marginally saturated in areas throughout the year. It is currently at a level manageable for farming purposes, however, there are concerns as regards any increase in the quantity of water soaking into this land which could affect the farming capabilities of same. Similarly, the appellant remains concerned with regard to the potential for chlorinated water to contaminate his livestock's supply of drinking water.
- It is considered that the photographs submitted by the applicant in an attempt to demonstrate the height of the proposed wind turbine are inaccurate and of little relevance.
- It is considered that the data submitted with regard to recorded wind speeds in Cork is questionable as there would be many days when wind speeds would exceed Force 8 of the Beaufort Scale i.e. 20.7m/s. It should also be noted that a wind speed of 10.8m/s equates to Force 6 of the Beaufort Scale i.e. a strong breeze.

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- The information provided by the applicant in Paragraph 6 of his submission in relation to acoustic noise levels is derived from data which pertains to a 12m high turbine and, therefore, is not relevant to the subject proposal.
 - It is submitted that the figures provided with regard to noise levels from the proposed turbine are irrelevant in that they are not site specific. Accordingly, an independent and site specific survey should be conducted.
 - The applicants reference to 30m and 40m high pylons is rejected and it is submitted that these poles do not appear to exceed 19m.
 - With regard to the applicants reference to turbines with rotor diameters of 150m at the end of the valley it is submitted that there are no turbines in the Meallagh Valley.
 - It is submitted that there is insufficient separation distance between the proposed turbine and the site boundary in the event of a catastrophic collapse. Furthermore, the blades of the proposed turbine as proposed will extend over the appellants lands.
 - The appellants previous comments with regard to the landscaping of the site are reiterated.
 - Whilst the applicant has commented that all rock and spoil will be retained on site it is queried as to how this will affect the finished ground levels as no details of same are shown on the submitted plans.

8.0 DEVELOPMENT PLAN

Cork County Development Plan, 2009:-

Volume 1: Overall Strategy and Main Policy Material:

Chapter 2: Overall Strategy:

Section 2.4: Key Planning and Sustainable Development Goals:

The West Strategic Planning Area:

The policy and objectives for the West Strategic Planning Area are based on the following planning and sustainable development goals:

- a) To recognise the importance of the role to be played by Clonakilty as a ‘West Cork Strategic Employment Centre’; to promote its development as a major centre of employment and population where there is a high standard of access to educational and cultural facilities;
- b) To recognise the importance of the Strategic Transport Improvement Corridor to the development of Clonakilty, the overall economic potential of the West Strategic Planning Area and the facilitation of a balanced economic strategy for the County as a whole;
- c) To establish an appropriate balance in the spatial distribution of future population growth so that Bantry, Castletownbere, Dunmanway and Skibbereen, can accelerate their rate of growth, broadly in line with the North and West Cork Strategic Plan, and achieve a critical mass of population to enable them to maximise their potential to attract new investment in employment, services and public transport.
- d) To recognise the international importance and the importance to the region’s tourism economy, of the scenic and landscape qualities of the coastal and upland areas, particularly along the peninsulas in the southwest and to protect these landscapes from inappropriate development.

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- e) To facilitate the development of the villages and rural areas so that the rate of future population growth compliments the strategy to achieve a critical mass of population in the towns and provide protection for those areas recognised as under pressure from urban development.
 - f) To encourage a vibrant and well populated countryside, recognising the needs, to strengthen and protect the rural communities of the area by encouraging sustainable and balanced growth in both urban and rural populations, maintain traditional rural settlement patterns in rural areas and the islands, protecting agricultural and fishery infrastructure and productivity and focussing other employment development in the main towns and key villages;
 - g) To recognise the need to encourage the diversification of the rural economy by promoting a stronger tourism and leisure economy both through the protection of the area's natural and built heritage and by encouraging appropriate new forms of employment development.
 - h) To protect and enhance the natural and built heritage assets of Bantry, Castletownbere and Schull from inappropriate development to facilitate the development of the towns as Principle Tourist Attractions.
 - i) To recognise the role to be played by Castletownbere and its deepwater port facilities in the future growth of the fishing and tourism industry and to promote its future development and potential for other port related activities.

Chapter 4: Rural, Coastal and Islands:

Section 4.1: *Rural Housing:*

Section 4.6: *Sustainable Rural Housing:*

Section 4.6.7: Future development within the West Strategic Planning Area needs to be guided by the overall goal of achieving more balanced spatial development so that the critical mass of population envisaged by the North and West Cork Strategic Plan is achieved. Greenbelts exist around all the towns and help manage pressure for urban housing. Outside of the Greenbelts and scenic and coastal areas there are no specific policy restrictions on one-off housing in the countryside – such applications are assessed on their merits based on normal proper planning and sustainable development criteria and the wider policies and objectives of the County Development Plan. However, the pace of development in the countryside can be expected to moderate in line with the growth of the towns and villages.

Section 4.12: *Servicing Individual Houses in Rural Areas*

Section 4.13: *Siting, Design and Landscaping of New Dwelling Houses*

Chapter 6: Transport and Infrastructure

Section 6.7: *Energy:*

Development Plan Objectives: *Energy:*

INF 7-3 Renewable Energy Production:

It is an objective generally to encourage the production of energy from renewable sources, including in particular that from biomass, waste material, solar, wave, micro hydro power and wind energy, subject to normal proper planning considerations, including in particular the impact on areas of environmental or landscape sensitivity.

Wind Energy: (Sections: 6.7.11 - 6.7.14 inclusive):

Development Plan Objectives: *Wind Energy:*

INF 7-4: Wind Energy Projects:

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- (a) It is an objective to encourage prospective wind energy businesses and industries. In assessing potentially suitable locations for projects, potential wind farm developers should focus on the strategic search areas identified in the Plan and generally avoid wind energy projects in the strategically unsuitable areas identified in this Plan.
- (b) It is an objective to support existing and established businesses and industries who wish to use wind energy to serve their own needs subject to proper planning and sustainable development.
- (c) It is an objective in the strategic search areas (and in those areas that are identified as neither strategic search areas nor strategically unsuitable areas), to consider new, or the expansion of existing, wind energy projects on their merits having regard to normal planning criteria including, in particular, the following:
- The sensitivity of the landscape and of adjoining landscapes to wind energy projects;
 - The scale, size and layout of the project, any cumulative effects due to other projects, and the degree to which impacts are highly visible over vast areas;
 - The visual impact of the project on protected views and prospects, and designated scenic landscapes as well as local visual impacts;
 - The impact of the project on nature conservation, archaeology and historic structures;
 - Local environmental impacts including noise and shadow flicker;
 - The visual and environmental impacts of associated development such as access roads, plant, grid connections etc.
 - The proximity and sensitivity of a recognised settlement,
 - The impact of the project on archaeology and historic structures,
 - The impact of nature conservation, in particular avoiding designated and proposed European sites.
- (d) Similar criteria would be taken into account in the strategically unsuitable areas except that suitable projects will generally be on a smaller scale and on very special, carefully chosen sites.

Chapter 7: Heritage and Environment:

Section 7.2: *Landscape:*

Development Plan Objectives: *Landscape:*

ENV 2-2: The Landscape:

It is an objective of the Planning Authority that landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.

ENV 2-3: Landscape Character Assessment:

It is an objective to raise awareness and promote appreciation of the landscape through Landscape Character Assessment. This method of assessment allows for a more inclusive approach to landscape management and enables Cork County's landscape to be identified for its capacity to accommodate development.

ENV 2-6: General Visual and Scenic Amenities:

It is a general objective to protect the visual and scenic amenities of County Cork's built and natural environment.

The subject site is located with the 'Bantry Landscape Character Area' as indicated in the Landscape Character Map contained in the County Development Plan which is described as comprising 'Composite Bay and Lower Valley of Ridges and Drumlins'.

Bantry Electoral Local Area Plan, 2005:-

Section 2: Overall Strategy:

Section 2.2: *Settlement Strategy*

Section 5: Transport and Infrastructure:

Section 5.5: *Energy and Communications*

Section 7: Environment, Heritage, CLÁR, and the Islands:

Section 7.9: *Landscape Assessment*

9.0 NATIONAL AND REGIONAL POLICY

9.1 The 'Sustainable Rural Housing, Guidelines for Planning Authorities', 2005 promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. The proposed development site is located within a 'Predominantly Dispersed Settlement Area' as indicatively identified by the Guidelines.

9.2 The 'Guidelines for Planning Authorities – Wind Energy', 2006 outline the national policy context regarding the development of renewable energy sources, together with measures aimed at a reduction and more efficient use of energy. They foresee development plans achieving a reasonable balance between responding to overall Government policy on renewable energy and enabling the wind energy resources of the planning authority's area to be harnessed in a manner that is consistent with proper planning and sustainable development. The guidelines also set out a range of general considerations for assessing wind energy planning applications.

10.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are as follows:

- Rural housing policy
- Overall design / visual impact
- Impact on residential amenity
- Traffic implications
- Drainage / flooding implications
- Other issues

These are assessed as follows:

10.1 Rural Housing Policy:

10.1.1 The proposed development site is located within the Western Strategic Planning Area as identified in the County Development Plan and in this respect it is of relevance to note that the site is situated in an area of open countryside, outside of any greenbelt, coastal or scenic designation, and that pursuant to Section 4.6.7 of the Plan there are no specific policy restrictions pertaining to the development of one-off housing within such areas. Accordingly, any such applications are to be assessed on their merits having regard to the proper planning and sustainable development of the area and the wider policies and objectives of the County Development Plan.

10.1.2 The proposed development includes for the construction of an additional dwelling house on site which is described by the applicants as intended to be 'ancillary' to their existing residence, however, concerns have been raised as to the need for this second dwelling and the potential for same to result in an over-development of the site. In this respect the appellants have submitted that no rationale has been provided for the provision of this second dwelling house and that it would appear to be superfluous to the applicant's needs.

10.1.3 In its initial assessment of the subject proposal the Planning Authority noted that the proposed dwelling house comprised a detached self-contained unit with a stated floor area of 29.23m² which consisted of an en suite bedroom and a combined kitchen / dining / living area. It was subsequently considered that the floor area of the proposed unit would be substandard and that, in the absence of any identified need for same, it would lead to an overdevelopment of the site. No further details were sought from the applicant as regards the need for the proposed 'ancillary' dwelling and, therefore, in its notification of a decision to grant permission for the proposed development, the Planning Authority imposed Condition No. 2 which required the omission of the proposed dwelling in its entirety.

10.1.4 Although the appellants have welcomed the decision of the Planning Authority to omit the proposed dwelling they have nevertheless reiterated their earlier objection to any such proposal and have questioned the need for an additional dwelling house on site. In response, the applicant has sought to clarify the need for the proposed dwelling by referring to a previous planning application lodged under PA Ref. No. 092118 which sought permission to construct an extension to an existing dwelling house at Derryconnery, Glengarriff, Co. Cork. This earlier application concerned a proposal to provide wheelchair accessible ground floor living accommodation for the applicants aunt at her existing dwelling house, however, due to the lack of a sufficient site area to accommodate a new percolation area, which would accord with current EPA guidance, the application was withdrawn. The applicants subsequently proceed to outline how, prior to receiving notice of the subject appeal, they held pre-planning consultations with the Planning Authority and submitted revised proposals which took account of Council's concerns regarding the size and design of the proposed ancillary dwelling house. In this respect the structure was apparently redesigned with an increased floor area and as a unit attached to the existing dwelling house to form an extension to same as opposed to a standalone unit, although no further details of these revised proposals or the pre-planning consultations have been submitted.

10.1.5 On the basis of the foregoing, it would appear that the proposed 'ancillary' dwelling house is intended to function as a self-contained 'granny' flat to

accommodate a family member, although this was not made clear in the initial application documentation. The matter is complicated somewhat further as the planning application form indicated that it was proposed to sell the house / site in the event of a grant of permission, although this would seem to be in reference to the proposed ‘ancillary’ house and not the existing residence.

10.1.6 Notably, the applicant has chosen not to appeal the inclusion of Condition No. 2 in the notification of the decision to grant permission, which required the omission of the proposed second dwelling house, and has even gone on to submit a revised site layout plan omitting same in order to comply with the requirements of that condition.

10.1.7 In my opinion, inadequate information was provided with the initial application as to the need for the proposed ‘ancillary’ dwelling house and whilst it would appear to have actually been intended to function as a ‘granny’ flat, in the absence of further details regarding the need / purpose of same, and noting the applicants subsequent proposal to amend its design and to attach it to the existing residence, I am inclined to concur with the decision of the Planning Authority to omit same.

10.1.8 With regard to the appellants concerns that the provision of a second dwelling house on site could result in the overdevelopment of same, I would reiterate that the proposed ‘ancillary’ unit would appear to be intended to function as a form of ‘granny’ flat which, whilst providing self-contained and independent living accommodation, would nevertheless form part of the existing residence. This would seem to be supported by the fact that the proposed unit would share existing services, including the wastewater treatment system, with the main residence and thus it would not be feasible to sever the proposed unit from the existing property. Accordingly, the proposed unit would be intrinsically linked with the main residence and would be unable to function independent of same. In effect, a proposed ‘granny’ flat is considered to form part of the existing dwelling house and in most instances it will be subsumed into the living accommodation of the main residence when its use as self-contained accommodation is no longer required. Such a scenario would seem to address the appellants concerns as there would appear to be insufficient space on site to accommodate an entirely separate dwelling house (with its wastewater treatment system etc.). Similarly, as a ‘granny’ flat would be ancillary to the main residence this may also serve to address the appellants concerns with regard to the applicants legal entitlement to access any such accommodation via the private laneway serving the existing house.

10.1.9 On the basis of the foregoing, I am not satisfied that sufficient information has been provided with regard to the proposed ‘ancillary’ dwelling house on site and therefore I would concur with the decision of the Planning Authority to omit same, however, any future proposal for a ‘granny’ flat or similar form of accommodation should be assessed on its merits.

10.2 Overall Design / Visual Impact:

10.2.1 The principle concerns raised with regard to the potential negative impact of the proposed development on the visual amenities of the surrounding area relate to the erection of the proposed wind turbine and the pool building. With regard to the latter the construction of the pool building will necessitate the carrying out of excavation works into the hillside upon which the site is located in order to achieve a finished

floor level of 95.958m with the base of the pool located a further 1.5m deep at a level of 94.458m. It has been suggested that these excavations will require significant rock-breaking operations which will result in extensive scarring of the landscape, however, in response the applicants have submitted that any impact on the landscape arising from the rock-breaking process will be of a temporary duration and that once the construction of the pool building is completed it will integrate into the existing landscape.

10.2.2 The proposed pool building will be positioned perpendicularly to the existing dwelling house and parallel to the south-eastern site boundary and will present an elevation 28.4m in length and 3.56m in height (excluding the proposed protective fencing atop same) to the southeast. The external elevations of the structure will be finished in a neutral shade of stonework (typically Liscannor Stone) whilst the roof area will be topsoiled and seeded in order to function as an extension of the lawn area. In my opinion, given the sites location outside of any amenity or scenic designation identified in the Development Plan, the absence of any views or vistas in the area which are listed for preservation, the relatively isolated location of the site and the overall design of the proposed structure, including its external finishes and as the building will be set into the hillside which will form a backdrop to same, combined with an appropriate programme of landscaping, I am satisfied that the proposed pool building will not have an undue negative impact on the visual amenities of the wider area. Whilst I would concede that the excavation and construction works associated with the proposal will somewhat detract from landscape it should be noted that by definition these works are of temporary nature and that any such impact will be of an interim duration.

10.2.3 The proposed wind turbine will have a hub height of 17.26m and a rotor diameter of 5.5m thereby giving a total combined height of c. 20m. It will be located in the south-eastern corner of the site and will be erected on a concrete base at a level of 95.25m approximately 270mm over existing ground level. In terms of assessing the visual impact of the proposed turbine consideration must be given to the site context. In this respect I would reiterate that the site is situated in a relatively isolated rural location outside of any scenic or amenity designation and away from any views which are listed for preservation. Furthermore, due to the nature of the surrounding topography the proposed turbine will be effectively screened from vantage points located further west. It is proposed to position the turbine in the south-eastern corner of the site which is probably the lowest available and accessible location on site. Notably, as the base of the turbine will be located at a level of 95.25m, which is in excess of 5m below that of the existing dwelling house, this will also serve to screen it from views to the west / northwest. At this point I would advise the Board that in response to the grounds of appeal the applicant has submitted a sectional drawing through the site which details the proposed turbine etc. relative to existing ground levels and structures on site. This indicates that the tip of the rotor blade of the proposed turbine will exceed the ridge height of the existing dwelling house by 7.98m. It is of relevance to note that the Planning and Development Regulations, 2001, as amended, permit the erection of domestic wind turbines with the curtilage of a dwelling house up to a maximum height of 13m. For comparison purposes it should be noted that if such an exempted turbine were to be erected on site at a ground level consistent with that of the existing dwelling house the proposed turbine would only exceed the height of same by c. 2m.

10.2.4 Whilst I would concede that the subject site is located in an area which has been identified in Figure 6.3 of the Development Plan as ‘Strategically Unsuitable’ for wind energy, the Plan does acknowledge that within such areas small scale projects at suitable locations may be acceptable. Furthermore, I am inclined to suggest that this policy provision is perhaps more applicable to proposals for commercial wind farms as opposed to single domestic turbines.

10.2.5 Therefore, having regard to the foregoing, it is my opinion that the proposed wind turbine will not have an undue impact on the visual amenity of the area and that the surrounding landscape has the capacity to accommodate same.

10.2.6 In respect of the appellants comments concerning the applicants alleged failure to carry out landscaping pursuant to PA Ref. No. 04/7187, it should be noted that the Board has no powers of enforcement and therefore any complaints pertaining to alleged non-compliance should be directed to the Planning Authority.

10.3 Impact on Residential Amenity:

10.3.1 Whilst it is accepted that the proposed wind turbine will generate noise it is necessary to ascertain whether this level of noise will be such so as to have a detrimental impact on the residential amenity of surrounding properties. In this respect it should be noted that there are two distinct sources of noise associated with the operation of wind turbines; aerodynamic noise caused by the blades passing through the air, commonly referred to as a ‘swishing’ sound; and mechanical noise created by the operation of mechanical components in the nacelle i.e. the generator, gearbox and other parts of the drive-train. In respect of the latter advances in turbine technology and design have resulted in reduced noise emissions and in the case of the subject proposal I note that the selected turbine operates without a gearbox and so the mechanical noise normally associated with such a device will not arise. Whilst refinements in turbine design such as the change from lattice to tubular towers, the use of variable speed operations and the switch to three-blade designs have all combined to make turbines quieter aerodynamic noise will nevertheless be generated by the blades turning in the wind.

10.3.2 In response to a request for further information issued by the Planning Authority the applicants submitted technical data pertaining to the selected turbine (the Evance R9000) which states that a predicted noise level of 45dB(A) would be recorded at distance of 60m from the turbine and at a wind speed of 8m/s. On the basis of this data, and as the nearest occupied third party residence would be c. 115m from the proposed turbine, the Planning Authority concluded that the noise levels expected to be experienced at these NSLs should be within the 43db guideline limit.

10.3.3 The appellants have questioned the data supplied with regard to the operational noise of the proposed turbine on a number of grounds including that it is not specific to the turbine proposed, with particular reference to its height. In addition, it has been submitted that it is evident from the Test Summary provided by the turbine manufacturer that there is no recorded data for noise levels when wind speeds are in excess of 11m/s which are considered to be common at the subject site.

10.3.4 From a review of the *'Evanco Iskra R9000 Acoustic Noise Assessment according to BWEA Performance and Safety Standard – Summary, Issue 02'* (dated 28th May, 2009), as submitted by both the applicants and the appellants, it would appear that a noise level of 40-45dB(A) would be generated by a 12m high turbine at a wind speed of up to 11m/s and at a distance of c. 120m from the turbine. At this point it should be noted that the nearest third party residence to the proposed turbine is c. 119m away as detailed on the site layout plan submitted in response to the request for further information. Whilst the appellants have submitted that no data has been supplied in respect of wind speeds above 11m/s the applicant has countered this by stating that recorded average wind speeds do not exceed this figure.

10.3.5. Whilst I have considered the contents of the *'Evanco Iskra R9000 Acoustic Noise Assessment'* as submitted by both parties it should be noted that the data contained therein is not specific to the selected model of turbine proposed and instead would appear to relate to a different type of wind turbine, namely, an Iskra Wind Turbine: Model AT5-1. Furthermore, I note that this document dates from 2009 and that at the time the report had not been subjected to external review by a certifying body i.e. the Evanco R9000 wind turbine had not achieved MCS (Microgeneration Certification Scheme) accreditation in the UK, however, it is my understanding that the Evanco R9000 has since received this UK MCS certification. Chapter 4 of the *'Product Certification Evanco R900 UK MCS Certification Summary Issue 03'* (which is available from the manufacturer's website) states that the BWEA Reference Sound Levels for the R9000 turbine at distances of 25m and 60m at an 8m/s hub height wind speed are 53dB(A) and 45.5dB(A) respectively. Notably, at a distance of 100m the noise level would be within the lower limit of the 40-45dB(A) range. In view of the foregoing, and considering the separation distances between the proposed turbine and the nearest NSLs, in my opinion, it would appear that the anticipated noise levels from the proposed turbine would be within acceptable limits and should not interfere with the residential amenity of surrounding properties, however, in the interests of clarity and the preservation of residential amenity, I would recommend the imposition of a suitable condition to ensure that noise levels do not exceed 43db(A) during normal operations, or in excess of 5db(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.

10.4 Traffic Implications:

10.4.1 The proposed development site is accessed via a right of way over a private laneway and concerns have been expressed that the heavy construction traffic associated with the proposed development may damage the laneway or undermine its structural stability. In this respect specific reference is made to a retaining wall which supports a section of the laneway and the dwelling house which adjoins same.

10.4.2 Whilst I would acknowledge the appellants concerns with regard to the potential for damage to the laneway and the adjacent property consequent on the proposed development, it is of relevance to note that the laneway is in private ownership and, therefore, in my opinion, the resolution of such issues which may arise is a civil matter between the parties concerned.

10.4.3 With regard to the adequacy of the wider road network to accommodate the proposed development, in my opinion, the proposed works will be ancillary to the enjoyment of the existing dwelling house and thus should not generate any additional

traffic. Furthermore, given the level of development which has already occurred in the area I am inclined to suggest that the road network can also accommodate the interim construction traffic expected to be generated by the proposed development.

10.5 Drainage / Flooding Implications:

10.5.1 Concerns have been expressed by the appellants with regard to the proposal to dispose of treated waters from the proposed swimming pool to ground and the potential for same to contribute to flooding of adjacent property and to contaminate the water supply serving same. In particular, reference is made to the depth of rock present on site and the absence of adequate infiltration properties.

10.5.2 In response to the foregoing, the applicants have submitted that as a trial hole excavated in the location of the proposed soakaway indicated that rock only occurred at a depth of 1.7m below ground level this would be indicative that the site retained adequate infiltration properties to accommodate the proposed discharge of pool water. Furthermore, it was clarified that due to the constant filtration of water within the pool it would only be necessary to change approximately 300 litres of water every 6-12 months, as opposed to changing the entire water volume, and that when the pool would require emptying (every 2-3 years as part of the essential maintenance of same) the water would be released into the percolation area gradually over a number of days so as to allow the ground to absorb it at a suitable rate, ideally during the summer months. It was also submitted that there were a number of companies available which could provide pool draining / water disposal services if necessary. With regard to the quality of the discharged pool water it was submitted that the applicant was amenable to the inclusion of a condition which would specify that only fresh water could be used in the pool and that there would be no chemical treatment of same such as chlorination.

10.5.3 Having reviewed the submitted information, whilst I would have no objection in principle to the disposal of suitably treated pool water to ground I am not satisfied that the applicant has supplied sufficient information to demonstrate that the site has adequate infiltration properties to accommodate the proposed soakaway. However, I am inclined to suggest that this matter could be addressed by way of a condition whereby the disposal of pool water could be agreed with the Planning Authority. This would allow the applicant the opportunity to demonstrate the adequacy of the proposed soakaway, or alternatively, it would allow the Planning Authority to require the disposal of pool water (including any treated waters which may be unsuitable for disposal to ground) by a specialised pool drainage company. Such a provision would seem to address the appellants concerns.

10.6 Other Issues:

10.6.1 Although the grounds of appeal have chosen to focus on a number of specific elements of the proposed development, following a review of the submitted information, I am satisfied that the remaining components of the wider development, including the proposal to retain the detached boiler house, to insert an additional rooflight within the front elevation of the existing dwelling house and to alter the site boundaries, are all acceptable.

11.0 RECOMMENDATION

Having regard to the foregoing I recommend that permission for retention and permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

Reasons and Considerations:

Having regard to the domestic nature, scale and design of the proposed development and the development for retention, the site location and landscape context, the pattern of development in the vicinity of the appeal site, and the separation distance from nearby residential properties, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of properties in the vicinity, would not present an unacceptable risk of water pollution and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted the 11th day of March, 2011 and by the further plans and particulars received by An Bord Pleanála on the 27th day of May 2011, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed ancillary dwelling house shall be omitted in its entirety.

Reason: In the interest of clarity and to safeguard the amenities of the area.

3. Water supply and drainage arrangements, including the disposal of pool water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

4. The proposed swimming pool and gym area shall be ancillary to the enjoyment of the existing dwelling house and shall not be used or operated independently of the overall development.

Reason: In the interest of protecting the amenities of adjoining property.

5. Details of all the external finishes and materials to be used shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of visual amenity

6. Noise levels from the wind turbine shall not exceed 43 dB(A) during normal operation, or in excess of 5 dB(A) above the normal background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling. All sound measurements shall be carried out in accordance with ISO Recommendations R1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R1996/1, 2 and 3, "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.

7. If the turbine ceases operation for a period of more than six months, the mast and turbine shall be removed.

Reason: In the interest of visual amenity and to ensure satisfactory decommissioning upon cessation of use of the turbine.

8. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Signed: _____

Robert Speer
Inspectorate

Date: _____

