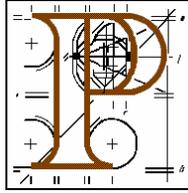


PL 04. 238886

## An Bord Pleanála



## Inspector's Report

**DEVELOPMENT:** House and ancillary works at Castlelands  
Kinsale, Co Cork.

### PLANNING APPLICATION

**Planning Authority:** Cork County Council.

**Planning Authority Reg. No:** 11/04318.

**Applicant:** Alan O Flynn.

**Application Type:** Permission.

**Planning Authority Decision:** Refuse Permission.

### APPEALS

**Appellants:** Alan O Flynn

**Type of Appeals:** First Party appeal v Refusal

**Observers:** None

**DATE OF SITE INSPECTION:** 22<sup>nd</sup> June 2011

**INSPECTOR:** Bríd Maxwell

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site which has a stated area of 2.66 hectares is located the townland of Ringrone overlooking the Bandon River circa 1.8km to the south west of Kinsale Town. The site has panoramic views over the Bandon River and Kinsale Harbour. The north-western boundary of the site is defined by the Regional Road R600 which runs between Kinsale and Ballinspittle. The site rises dramatically over this road and rises to the south east. The site has a short section of road frontage circa 12m onto a narrow local road which runs to the east of the regional road. Ringrone Graveyard adjoins the site to the southwest and there are a number of established dwellings fronting onto the local road the south and southeast of the site. The ruin of Ringrone Castle, which is listed in the Record of Protected Structures RPS 00723 and is also listed on the Record of Monuments and Places RMP Number CO125-001, Tower House is located within the field of which the site forms part. There are a three other recorded monuments in the vicinity of the site including CO125-003, Holy Well (which is on the site) and CO-125-00201/02 Ringrone Church and Graveyard. Photographs of appeal site and vicinity are attached as appendices to the report.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The application seeks permission for the construction of a two storey dwellinghouse of 250 square metres with bored well, bio cycle treatment unit and all necessary ancillary site works. Proposed dwelling is split level in design with external finishes to include smooth plaster, stone cladding and cedar cladding to walls and slate to roof. The proposed access to the dwelling skirts along the western boundary of the graveyard walls and thereby running between the graveyard and Tower House.

## **3.0 SITE HISTORY**

Planner's report makes reference to the following planning history on and in the vicinity of the site.

- 95/3912 PL04.098173 Application by Mr and Mrs Kellett for permission for bungalow refused on grounds of visual obtrusiveness when viewed from scenic routes within scenic landscape.
- 86/308 Outline permission for two dwellings refused. Nearby site.
- 10/4178 on site to the south permission refused on grounds of visual obtrusiveness.

## **4.0 PLANNING AUTHORITY'S DELIBERATIONS AND DECISION.**

### **4.1 Submissions**

- An Taisce submission notes that the site is visually exposed and proximity to medieval castle ruin and church complex renders the site inappropriate for development in principle.

- Department of the Environment Heritage and Local Government submission notes location within archaeologically sensitive area and recommends against a grant of permission on grounds of negative archaeological impact and negative visual impact on setting of Ringrone Castle.

#### **4.2 Planning Authority Reports**

- Conservation Officer's report asserts that the proposed dwelling would seriously compromise the setting of Ringrone Castle and incur a negative visual impact on the structure itself. Refusal is recommended.
- Archaeologist's report recommends refusal on grounds of negative impact on sites features and objects of archaeological interest. The report notes that description from the Archaeological Inventory of County Cork, Volume 2: East and South Cork 1994. The castle is the remains of a Tower House which was built in the 15<sup>th</sup> and 16<sup>th</sup> century as lordly residence by de Courcey family. The remains are fragmentary yet still remain as a historic landmark feature consisting of the west wall which stands to two storeys in height. Tower houses and churches are often closely associated. The present church in the graveyard is the remains of a Church of Ireland Church dates to the 18<sup>th</sup> century which was built on site of the ancient parish Church of Ireland abandoned in 1844 when a new church was built nearby. The church is in a graveyard which contains typical Christian burial place marked by 18<sup>th</sup> and 19<sup>th</sup> century headstones and earlier unnamed grave markers. The graveyard is still in use. There are two or three large built up tombs here, including that of the De Courcey's, Lords Kinsale and the Bullen family in 1726. It is difficult to establish the full extent of the burial ground as they tended to be enclosed in the 18<sup>th</sup> century and headstones only became popular as grave markers from the 18<sup>th</sup> century onwards.
- The report of the Area Engineer considers that the sight lines at the proposed entrance would be difficult if not impossible to improve. Further information required in relation to entrance and wastewater treatment.
- Area Planner's report recommends refusal on grounds of visual impact, archaeological impact and on basis that the applicant has not demonstrated eligibility for consideration for dwelling within the designated coastal scenic landscape.
- Liaison Officer's report agrees with the recommendation to refuse.

#### **4.3 Planning Authority's Decision**

- 4.3.1 The Planning Authority decided to refuse permission for the following reasons
1. *"The prominence, elevation and relationship of the site with the environs of Kinsale, scenic landscape and scenic route (A62) combined with the inappropriate siting, scale and design of the house, will result in visual obtrusiveness in a sensitive and protected scenic landscape and will damage important views and prospects obtainable from the scenic route (A62/R606), in Kinsale inner harbour / Bandon River Estuary, and would interrupt the natural setting and demesne of Ringrone Castle a protected structure and recorded monument. Accordingly, the proposal conflicts*

*with Policy Objectives ENV 2-7, ENV 2-9, ENV 2-10, ENV 2-11 and ENV 2-12 (Scenic Landscape / Scenic Routes) ENV 3-1, ENV 4-1, ENV 4-5 and ENV (Protected Structure and Recorded Monument) in the County Development Plan 2009 and the Bandon Electoral Area Local Area Plan 2005 which seeks to protect the scenic coastline and viewpoints within the harbour (BEALAP 2005, p 40 Para 2.3.8).*

2. *The applicant has not submitted any evidence proving that he has lived in the local area of the site for a period of seven years or more, and as the site is in a scenic and coastal area the proposal conflicts with Policy Objective RCI10-1(b) of the County Development Plan 2009, which states it is an objective to strongly discourage new dwellings in scenic areas, unless such criteria can be met.*
3. *The site is surrounded by four interconnected Recorded Monuments (CO125-001 Ringrone Castle, CO125-00201 and 2 Ringrone Church and Graveyard and CO125-003 Holy Well) and as such lies within a possible medieval complex, and a widespread zone of archaeological potential and as the proposed development is not supported by any archaeological assessment, the proposal seriously conflicts with Policy Objectives ENV 3-1 and ENV 3-3, in the Cork County Development Plan, 2009, which seek to (1) safeguard sites, features and objects of archaeological interest and (2) protect and preserve zones of archaeological potential around these monuments.*

## **5.0 APPEAL SUBMISSIONS**

### **5.1 First Party Appeal**

The grounds of appeal by are summarised as follows:

- Great attention and detail was afforded to the application as it is a genuine housing application. Applicant has lived in Cullen Riverstick.
- Applicant is the owner of the site which was a gift from his father.
- Screen planting is proposed and sufficient distance from the existing monument has been maintained.
- Intention is to protect the monument and applicant would be happy to enter into any arrangement with the Council on enhancing or making it more accessible to the general public should permission be awarded.
- Willing to employ an archaeologist to conduct any report as necessary.
- Waste water proposal was provided with the application.
- Permission would ensure the safety of the monument and ensure its longevity.

## **6.0 RESPONSES TO GROUNDS OF APPEAL**

### **6.1 Response of The Planning Authority.**

The Planning Authority response addresses the grounds of appeal as follows:

- Photomontage depicts a significantly modified landscape together with unsuitable tree planting screen designed to conceal the visual obtrusiveness of

the development. This is out of keeping with the openness of the setting and interferes with the setting of the Monument.

- Cullen, Riverstick is over 9km north east of the application site. It is not close enough to the site to be considered a local housing need. The applicant has not submitted any evidence to prove that he meets the housing eligibility criteria of the County Development Plan. Notably appellant's postal address is given within the Cork Metropolitan Area.
- Appellant's appeal statement accepts that archaeology is present on the site but shows a lack of awareness with respect to the overall scale of potential archaeology.

## **7.0 PLANNING POLICY**

### **7.1 NATIONAL POLICY Guidelines on Sustainable Rural Housing 2005.**

7.1.1 *The National Spatial Strategy identified categories of rural area types requiring differing settlement policies for rural housing. Maintaining this approach, The Sustainable Rural Housing Guidelines issued by the Department of the Environment Heritage and Local Government, April 2005 are based on the presumption that people who are part of the rural community should be facilitated by the planning system in all rural areas. In terms of the guidelines the appeal site lies within an area under strong urban influence. The key requirements in these areas should be to on the one hand facilitate the housing requirements of the rural community while directing urban generated development to areas zoned for new housing development in cities, towns and villages.*

7.1.2 The Guidelines emphasise that site-specific normal planning considerations should apply to all sites and address such issues as access, protection of water quality and natural and cultural heritage which includes landscape and seascapes and design considerations.

### **7.2 Cork County Development Plan 2009 and Bandon Electoral Area Local Area Plan 2005**

7.2.1 The relevant plan is the Cork County Development Plan 2009 and Bandon Electoral Area Local Area Plan 2005. Chapter 4, Rural Coastal and Islands sets out the policies required for the sustainable development of rural areas, Policy RCI 9-3 The Needs of People in Rural Communities is relevant.:

*“(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.” At 4.11.3 it is stated that when exceptions to the settlement policy are being considered on the basis of an individual local need for housing in a particular area, it is important to ensure that such exceptions are genuinely warranted.*

- 7.2.2 The site is within the designated scenic landscape and there are two scenic routes in the vicinity S61 and S62 as depicted on Landscape Map 15. RCI 10-1 sets out specific requirements in scenic and coastal areas.
- 7.2.3 Ringrone Castle is Protected Structure (RPS 723.) The site contains recorded monument Holy Well CO 125-003 Holy Well and is immediately adjacent to and within the Zone of Archaeological potential around the recorded monument CO125-001 Ringrone Castle Tower House and CO125-00201 and 2 Church and Graveyard.
- 7.2.4 Heritage and Environment Objectives and Policies are set out in Chapter 7 of the County Development Plan and include Landscape Objectives ENV 2-7 Scenic Landscape, ENV 2-9 General Views and Prospects, ENV 2-11 Scenic Routes and Archaeology objectives ENV 3-1 Sites, Features and Objects of Archaeological Interest, ENV 3-3 Zones of Archaeological Protection.
- 7.2.5 Within the Bandon Electoral Area Local Area Plan 2005 it is stated that the Council will seek to maintain the quality of the environment, in particular the protection of the scenic coastline and viewpoints within the harbour.

### **7.3 Cork Rural Design Guide.**

- 7.3.1 The Planning Authority has produced the Cork Rural Housing Design Guide (Cork County Council 2003), which aims to indicate key design principles and characteristics of Cork's heritage and landscape, which need to be considered when preparing a planning application. The document sets out guidance in relation to site location, placement within the site, retention of the assets of the site and principles in relation to the actual design of houses. In relation to design the guide emphasises, inter alia, simplicity of form, little modelling to the front, well proportioned balanced simple construction and absence of frills.

## **8.0 ASSESSMENT**

- 8.1 Following my inspection of the site and consideration of the documentation on file and the prevailing local and national policies and plans, I consider that the following are the main issues in this appeal:

- Compliance with settlement policy.
- Visual Amenity and Impact on the Character of the Area
- Archaeological and Heritage Impact
- Access and Servicing

### **8.2 Compliance with settlement policy.**

8.2.1 The appeal site is located within the designated scenic landscape outside the town of Kinsale. Development plan objective RCI 10-1 Rural Houses in Scenic and Coastal Areas recognises the scenic and coastal parts of the County generally have limited capacity, both in environmental and scenic amenity terms to accommodate individual dwellings in the countryside. It is an objective to strongly discourage new dwellings in such areas except within established villages or village nuclei. This restriction is relaxed in principle for the year round occupation of people who have lived for a period in excess of seven years in their local area and subject to a suitable site being available. The restrictive policies in the Development Plan are reasonable and are consistent with national policy. The appeal submission has stated that the applicant has been gifted the site by his father and that he currently resides in Cullen, Riverstick which is circa 9km to the north east of the site. Based on the information provided it is apparent that the applicant does not comply with the requirements for exceptional consideration within the designated scenic landscape, notwithstanding consideration of the question of consideration of “a suitable site being available”.

### **8.3 Visual Amenity and Impact on the Character of the Area.**

8.3.1 The site is located within a designated scenic area where it is a stated objective of the development plan to preserve the visual and scenic amenities of scenic landscapes in accordance with ENV 2-7. It is a general objective ENV 2-9 further is a general objective to preserve the character of all important views and prospects particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance and views of natural beauty. ENV 2-11 refers to scenic routes where it is an objective to preserve the character of views and prospects obtainable from scenic routes. I refer to the photomontage submitted with the application and appeal which clearly demonstrates that the development including the proposed screen planting would be visually obtrusive and represent an entirely incongruous features in the landscape.

8.3.2 As regards the impact on the character of the area, the proposal is on a backland site to the rear of houses fronting onto the public road. The relationship to the established dwellings would be unsatisfactory. I consider that the proposal would not sit well with the surrounding dwellings and would appear haphazard.

8.3.3 Having regard to the context and visual prominence of the site and its wide zone of visual influence, I am satisfied that the development of a dwelling on the site would be visually obtrusive in the landscape and would seriously injure the designated scenic landscape and significantly affect views along designated scenic routes and would be detrimental to the amenities of the area.

### **8.4 Archaeology and Heritage Impact.**

8.4.1 The site contains recorded monument Holy Well CO 125-003 and is immediately adjacent to and within the Zone of Archaeological potential around the recorded monument CO125-001 Ringrone Castle Tower House and CO125-00201 and C0124-00202 Church and Graveyard. Ringrone Castle is Protected Structure (RPS723). It is a stated objective of the Development Plan to safeguard sites, features and objects of archaeological interest ENV 3-1 and ENV3-3. ENV 4-2 is the objective to ensure the protection of all structures contained in the Record of Protected Structures. The proposed development would clearly be injurious to the context and setting of the recorded monuments and their zones of archaeological potential and would result in serious negative visual impact on the protected structure and its setting.

## **8.5 Access and servicing**

8.5.1 The proposal is to provide for a vehicular entrance to the west of the existing Graveyard. Based on the site's limited road frontage (12 m) the provision of an adequate sightline could not be achieved and therefore the proposal would endanger public safety by reason of traffic hazard.

8.5.2 As regards servicing the proposal involves on site wastewater treatment and water supply by way of a private well. The site characterisation assessment describes the soil / subsoil encountered in trial hole. Initially silt clay/ loam, followed by silt with fine angular shale dispersed through the soil at 0.4m and sandy shaley subsoil at 0.9m. Bedrock was encountered at 1.5m. A T value of 3.39 and P value of 10.4 were determined. On the basis of inadequate depth of unsaturated subsoil a secondary treatment plant discharging to a mounded soil polishing filter is proposed. Report of Area Engineer raises some questions in relation to the site assessment noting that that the quality of the shale is poor locally the surface being weathered and fissured and further that the percolation hole intersects two different soil horizons. Having regard to the existence of a holy well on site (present but no longer in use) the provision of an additional septic tank having regard to the established concentration of septic tanks serving the established residential development in the vicinity is also of concern. On this basis I consider that the proposal would be prejudicial to public health.

## **8.6 CONCLUSIONS AND RECOMMENDATION**

8.6.1 Further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal and the site inspection, I conclude that the applicant has not demonstrated compliance with settlement policy in respect of the scenic landscape, the proposed development would be visually obtrusive and detrimental to rural and scenic amenity, would seriously injure and adversely affect the character and setting of the protected structure and would have a negative impact on the context and setting of the archaeological monuments would be prejudicial to public health, would endanger public safety by reason of traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

Accordingly, I recommend that permission be refused for the proposed development for the following reasons and considerations.

### **REASONS AND CONSIDERATIONS**

1. Having regard to the location of the site within a designated scenic area (a designation that is considered reasonable and consistent with the governments Sustainable Rural Housing Guidelines), it is considered that the applicant has not demonstrated an exceptional housing need in line with objective RCI 10-1 of the Cork County Development Plan 2009. It is considered that the proposed development would therefore be contrary to the objectives of the plan and the designation and would thus materially contravene the provisions of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site occupies an elevated, prominent position in a designated scenic landscape overlooking Kinsale Harbour and the Bandon estuary and designated scenic route A62 where the development would be unduly obtrusive on the landscape, would be out of character with and seriously detract from the amenities of the surrounding designated Scenic Landscape and designated Scenic Route. It is considered that the development by reason of its siting and design would be at variance with the design objectives and guidelines as set out in the Cork County Development Plan 2009 and the Cork Rural Design Guide 2003. The proposed development, which would be visually prominent, would seriously detract from the visual and scenic amenities of the area and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the proposed development which would involve development in close proximity to Ringrone Castle, protected structure RPS 723 and within the zone of archaeological potential of four interconnected recorded monuments, CO125-001 Ringrone Castle, CO125-00201 2 Ringrone Church and Graveyard and CO125-003 Holy Well, it is considered that the proposed development would seriously injure and adversely affect the character and setting of the protected structure and would have a negative impact on the context and setting of the archaeological monuments. The proposed development would therefore materially contravene the objectives of the development plan and would be contrary to the proper planning and sustainable development of the area.
4. It is considered that the proposed development represents haphazard backland development that would affect the character and appearance of the area and the amenities of nearby properties, that would result in a proliferation of entrances to the roadway and a proliferation of septic tanks in this area, which

would seriously injure the amenities of the area and thus be contrary to the proper planning and sustainable development of the area.

5. Sight distances at the entrance to the site onto the public road are severely restricted. The proposed development would interfere with the free flow of traffic on the public road and would endanger public safety by reason of traffic hazard.
  
6. The site is located in an area where public sewerage facilities are not available. Having regard to the characteristics of the site and to the established concentration of effluent disposal systems in the area it is considered that the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector  
29<sup>th</sup> June 2011