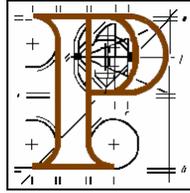


An Bord Pleanála



Inspector's Report

Appeal Ref. No: PL08.239449

Proposed Development: House

Location: Beenbane, Dingle, County Kerry.

Applicants: Donal Moran

Planning Authority Reg. Ref: 11/483

Planning Authority: Kerry County Council

P.A. Decision: Refuse

Appeal Type: Applicant v Refusal

Appellants: Donal Moran

Observers: An Taisce

Date of Site Inspection: 26th September 2011

Inspector: Hugh Mannion

1. SITE AND SURROUNDINGS

The site has a stated area of 0.258ha and is located on the western/seaward side of a local road which travels south from its junction with the N86 about 3kms east of Dingle. This road ends in a cul de sac at a small parking/viewing point over overlooking the mouth of Dingle Harbour shortly after passing the site. There are a significant number of houses in the immediate vicinity (about 15); three of which are on the western/seaward side of this local road. The road is relatively narrow with no median lines, footpaths or public lighting. There is a 1½ house immediately to the south of the site. The site occupies about 0.5 of the road frontage of a field which intervenes between that existing house and the applicant's brother's house on the same side but north of the site. The site is separated from the road by a rubble wall/briar/fuchsia hedging and slopes relatively gently west towards the sea. The overall field is in pasture but with significant reed growth. The northern boundary adjoins the applicant's brother's house but is separated from it by a wooden and wire fence.

There are significant views from the site over Dingle Harbour and towards the Reenbeg peninsula which encloses that harbour on its southern side.

2. PROPOSED DEVELOPMENT

The proposed development comprises the erection of a 1½ house with a new access to the public road. Foul water will drain to a septic tank, water will be sourced from a public mains connection and surface water will drain to a soakpit.

3. HISTORY

Planning register reference 09/529: application for permission for a house on this site withdrawn by the applicant.

Planning register reference 04/2160: application for outline permission a house on part of this site refused.

4. PLANNING AUTHORITY DECISION

The planning authority refused permission for 3 reasons.

- The site is located on the seaward side of the public road in an open and exposed landscape, the proposed development would scenic character of the landscape and natural beauty of the area and contravene objective ZL12-1 of the Development Plan.
- The proposed development would consolidate and extend a ribbon of development and set a precedent for suburban type development. The proposed development would interfere with the character of the landscape

which it is necessary to preserve under objective ZL12-1 of the Development Plan.

- The application has not established that foul effluent can be safely disposed of within the site and the proposal would be prejudicial to public health.

The **Environment Section** (site assessment unit) commented on contradictions within the submitted site assessment and required that a new trail hole be opened for inspection in the vicinity of the proposed polishing filter.

5. APPLICANT'S APPEAL

The grounds of appeal may be summarised as follows.

1. The applicant has family and friends in the area, does not want to degrade the amenity of the area and the house has been designed to respect the visual amenity of the area. The applicant's sister and brother live in the immediate area and the applicant wants to live close to these family members. The grounds of previous refusals have been had regard to in the present application. The proposed house represents vernacular architecture and additional landscape screening will further integrate the proposal into its context.
2. The previous application proposed a house in the middle of the field – the present application puts the house in the corner of the field beside Herlihy's house and therefore there will be no loss of sea views from the public road or other properties.
3. The site is in an area designated 'Rural General' in the County Development Plan which is the least sensitive type of landscape. The site is not within any designated views or prospects.
4. The site is an infill site and the proposed development will not extend ribbon development. The site is within a cluster of development which has a history of permissions.
5. The Environmental Section sought additional information – it did not recommend refusal.

6. PLANNING AUTHORITY RESPONSE

The planning authority did not respond to the application.

7. OBSERVATIONS

An Taisce, Noreeen O’Sullivan & Oliver O’Sullivan made observation setting out the following points.

1. The area is a scenic coastal landscape which should have been designated Prime or secondary Amenity in the County Development Plan. The previous County Development Plan designated views and prospects from the main road in the vicinity of the site but these were dropped from the current Plan. Nonetheless objective 12-1 “protect the landscape of the county as a major economic asset as well as for its amenity value and beauty” applies in this case.
2. The proposed development comprises over development in a scenic area and will be intrusive in views from the road and from the sea. It is doubtful that screen planting will be successful.
3. There is a history of applications on the seaward side of the road on the applicant’s family landholding. The applicant has access to alternative sites. The County Development plan sets out the criteria for allowing housing on ‘family land’. The house to eth north was only granted permission as a replacement houses following demolition of an existing 2 strew house and outbuildings.
4. There is excessive ribbon development on this cul de sac which has generated traffic hazard at its junction with the main road.
5. The application has not established that the site is suitable for disposal of septic tank effluent and the planning authority’s decision should be upheld.

8. FURTHER SUBMISSIONS

The applicant commented on An Taisce’s submission as follows;

- The height of the house (from 5.1m to 6.2m) and the floor area (204sqm) are not excessive and will not contribute to visual intrusion on the landscape.
- The views of the sea from the public road are obstructed by a roadside hedge and the proposed house will not obstruct the remaining view.
- This application will be the last on the landholding as all the applicant’s siblings have houses.

9. PLANNING POLICY FRAMEWORK

The Kerry County Development Plan 2009-2015 provides that it shall be an objective (SS3-33) to 'facilitate where possible, in accordance with proper planning and sustainable development, family members on their own land'.

The County Development Plan provides that it shall be an objective (ZL12-1) to 'protect the landscape of the county as a major economic asset as well as for its invaluable amenity value and beauty'. The site is designated 'Rural General' in the County Development Plan as illustrated on Map 12.1i attached to the plan. Such areas are regarded as being better able to accommodate development than areas designated prime special amenity or secondary special amenity areas.

10. ASSESSMENT

11.01 The issues in this case are Development Plan policy in relation to rural housing, visual amenity, foul effluent disposal and traffic safety.

11.02 County Development Plan Rural Housing Policy

11.03 The Kerry County Development Plan 2009-2015 provides that it shall be an objective (SS3-33) to 'facilitate where possible, in accordance with proper planning and sustainable development, family members on their own land'. The application form states that the site is in the ownership of the applicant's family. The applicant by way of a covering letter accompanying the application states that he has another landholding but that he wishes to live close to his brother and sister who live in the two houses on the same side of this road but north of the subject site.

11.04 All else being equal I consider that the application complies with Development Plan policy in relation to rural housing on family owned land.

11.05 Visual amenity

11.06 The County Development Plan provides that it shall be an objective (ZL12-1) to 'protect the landscape of the county as a major economic asset as well as for its invaluable amenity value and beauty'. The site is located in an area designated 'rural general' in the County Plan in relation to which the Plan states that such landscapes generally have a higher capacity to absorb development than the 'rural prime special amenity or rural secondary special amenity but that it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape.

11.07 The proposed site is within a rural area although significant ribbon development, particularly on the opposite side of the public road, has taken place. The site is on the seaward side of the road from which there are panoramic views over the mouth of Dingle Harbour and onto the headland beyond. The applicant, inter alia, makes the point that the site is effectively an infill site and that the house has been positioned on site so as to minimise its visual impact.

11.08 The proposed development is located such as to leave a further potential housing site between it and the southern boundary of the house to the north. The positioning of eth houses is not sufficient to mitigate its visual intrusion.

11.09 In short I agree with the planning authority that the proposed development would constitute an obtrusive feature in this landscape and would seriously detract from the amenity value and natural beauty of the area.

11.10 Ribbon Development

11.11 The planning authority is concerned that the proposal would constitute overdevelopment of a scenic area, consolidate and extend ribbon development and set a precedent for further suburban type development. The applicant states that the proposal is within a cluster of houses and will not constitute ribbon development. The Rural Housing Guidelines (appendix 4) describes ribbon development as almost continuous houses of 5 or more units in any given 250m of road frontage. I agree with the applicant that this is not the case in the present instance as there are only four houses on this stretch of roadway and the proposed one would be the fifth.

11.12 The planning authority makes a fairer point in relation to the general pattern of development in the vicinity of the site. While some of the houses may be related to the dominant agricultural use of the lands in the area it seems likely that a significant number are unrelated to any agricultural landuse. The pattern of development in the immediate vicinity is strongly suburban and I agree with the planning authority that the proposed development by providing further housing on the western/seaward side of the road would undoubtedly contribute to a sense of landscape enclosure so characteristic of suburban streetscapes.

11.13 Foul Effluent Disposal

11.14 The Planning Authority's Environment Section was unhappy with the site assessment submitted with the application and recommended that a new trial hole be dug near the polishing filter and for the planning authority to be afforded an opportunity to inspect the trial hole. The applicant's appeal states that the planning authority was unjustified in taking this request for further information as a reason for refusal.

11.15 At the time of my site visit the site evidenced a good deal of iris growth which is described in the EPA Wastewater Treatment Manual as a sign of wet site conditions where there is poor drainage. The submitted site assessment does not refer to this vegetation and describes the vegetation on site as consistent with suitable ground conditions. The planning authority's Environment Section also states that the percolation trench levels are not specified and the applicant's site assessment states that further investigation is required to see if all minimum depths can be achieved. The planning authority also commented on the anomaly that the assessment concluded that while the site was suitable for conventional septic tank effluent disposal it was not suitable for proprietary treatment systems.

11.16 There are three practical difficulties therefore; a visual inspection indicates that there is a high water table and/or that the site is wet for substantial parts of the year, the applicant's site assessment does not demonstrate that there is sufficient soil depth between the invert level of the percolation pipes and the water table to allow for adequate effluent treatment and there is an anomaly in stating that a site is suitable for a conventional septic tank system and not for a system which would discharge effluent of higher quality to the ground.

11.17 The County Development Plan sets out development standards for rural development and requires, *inter alia*, that foul effluent be treated in accordance with the EPA Guidance. It is the responsibility of the applicant to demonstrate that the site is suitable for the disposal of foul effluent. That has not happened in this case.

11.18 Traffic Safety

11.19 The local road fronting the site is narrow, has no footpaths or median line. This road gives access to about a dozen houses and to a small car park/viewing point onto the sea shore just to the south. Each house has an individual access to the roadway. The junction of this access road with the N86 to the north comprises a very tight Y-junction is particularly unsatisfactory. The issue was raised in the planning authority's planning report and in An Taisce's submission.

11. RECOMMENDATION

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 for the reasons and considerations set out below.

Reasons and Considerations

1. It is an objective of the planning authority as set out in the Kerry County Development Plan 2009 to 2015 to protect the landscape of the county as a major economic asset as well as for its invaluable amenity value and beauty. The proposed development is located on the seaward side of a public road, would be visible in views over a wide area and would exacerbate a pattern of suburban type residential development in the vicinity of the site. The proposed development, therefore, would seriously injure the amenity value and beauty of the area, would materially contravene an objective set out in the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied on the basis of the submissions made in connection with this application and appeal that the site of the proposed development is capable of treating foul effluent arising from the proposed development in accordance with the standards set out in the Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (EPA 2009). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Hugh Mannion
Planning Inspector
28th October 2011