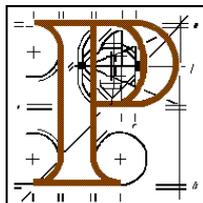


An Bord Pleanála



Inspector's Report

Development: House, garage, wastewater treatment system and percolation area and all associated site works at Gerryhankard, Upton, Co. Cork.

Planning Application

Planning Authority: Cork County Council
Planning Authority Reg. Ref.: 14/05760
Applicant: Jessica Lynch & Denis Hurley.
Type of Application: Permission
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): As above
Type of Appeal: First Party V Refusal
Observers: None
Date of Site Inspection: 9th January 2015

Inspector: Kenneth Moloney

1.0 SITE DESCRIPTION

The appeal site is located in a rural area and is situated approximately 3 km north–west of Inishannon. The primary land-use within the environs of the appeal site is agriculture.

The appeal site is located within the curtilage of an established property. The established house is a large two-storey detached dwelling with a driveway entrance off the public road. There is an enclosed grazing area either side of the existing driveway and the appeal site is located on the eastern side of the driveway.

The appeal site is situated at a slightly lower level than the existing two-storey house. The rear boundary of the appeal site has a mature hedgerow to the rear of the site.

The size of the appeal site is approximately 0.03579 ha (0.88 acres) and the shape of the appeal site is irregular.

2.0 PROPOSED DEVELOPMENT

The proposed development is for the construction of a part-single and part-two storey dwelling house, stand-alone garage, waste water treatment unit and associated percolation. The proposed development also includes a new site entrance.

The total floor area of the proposed house is approximately 240 sq. metres and the layout of the proposed dwelling comprises of two blocks connected by a link corridor. The front (northern block) of the proposed house is two-storey in height and the rear (southern block) of the proposed house is single storey in height. The internal floor plan comprises of living area and one bedroom at ground floor level and three bedrooms at first floor level.

The front elevation is finished in a mix of a stone façade and painted render finish. The maximum ridge height of the proposed front elevation is approximately 7.3 metres above the ground level. The maximum ridge height of the single storey block to the rear is approximately 4.3 metres above ground level.

The proposal also includes a single storey garage with a floor area of approximately 33 sq. metres and the maximum height of this structure is approximately 4.9 metres above ground level.

It is intended that the proposed house will be connected to the public water mains and the on-site treatment system is to comprise of a packaged wastewater treatment system.

The vehicular access serving the proposed house will be from an established vehicular access that serves the existing house on the site.

3.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to refuse planning permission for the following reasons;

1. Having regard to the rural pattern and character of development in the area, it is considered that the proposed development, by reason of its haphazard layout at the south eastern end of a larger 5 acre site, would adversely affect the rural character of the area and would create an undesirable precedent for proposals of a similar nature further north on this limited landholding.
2. Having regards to the site location and its proximity to the existing family dwelling house it is considered that the proposed development would unduly impact on the residential amenity of the existing property and would therefore be contrary to the proper planning and sustainable development of the area.

Internal Reports: There are two internal reports on the file:

Area Engineer: Clarification sought in relation to right of way and sightline provision onto the public road.

Irish Water: No objections.

Objections: There are no third party objections on the planning file.

4.0 PLANNING HISTORY

- L.A. Ref. 98/4156 – Permission granted to Peter Lynch for a dwelling house and garage on the overall site.

5.0 DEVELOPMENT PLAN

The operational development plan is the Cork County Development Plan, 2014 – 2020.

Section 4.4 of the County Development Plan sets out the 'Categories of Rural Generated Housing Need' and the appeal site is located within the area 'Rural Area under Strong Urban Influence'.

Policy Objective RCI 4-2 sets out the categories of housing need that are compliant with this area.

Policy RCI 4-8 sets out the exceptional health circumstances which applies to all rural housing policy areas.

Section 4.6 sets out 'General Planning Considerations' and this includes objectives are in relation to;

- Design
- Servicing of individual houses
- Ribbon Development
- Occupancy Conditions

Chapter 13 relates to Green Infrastructure and Environment sets out policies in relation to landscape.

6.0 NATIONAL POLICY

Sustainable Rural Housing Guidelines

The subject site is located within an 'Area under Strong Urban Influence' as identified in Map 1: Indicative Outline of the NSS rural areas types in the DOEHLG Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that in these areas the objective should be to on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

7.0 GROUNDS OF APPEAL

Leahy ADC, Architectural Design Consultants, lodged an appeal on behalf of the applicants Jessica Lynch & Denis Hurley. The main grounds of appeal are summarised as relating to the following; -

Introduction

- The proposal is not visually domineering.
- The proposal would not cause material overlooking nor overshadowing on the neighbouring property.
- The proposal respects the character of the area and the sites location and topography.
- The proposed development will create clustering of two houses and therefore reduce potential ribbon development.
- The proposed house is designed in accordance with the Cork Rural Design Guide.

Grounds of Appeal

- It is contended that the proposed location of the new house to the southern end of an existing house is appropriate as it will result in clustering and reduces any concerns of ribbon development.
- The avoidance of ribbon development is an objective of the sustainable rural housing guidelines.
- It is contended that given the sensitive nature of the proposed design and the topography of the area no visual impact will occur.

- The proposal will minimise its impact on the local secondary route (L-6064) as it proposes to create a spur road off the existing access avenue via a 'right of way'. This will reduce the number of entrances onto the L-6064 and will benefit traffic safety in the area.
- The existing entrance achieves the required sight lines of 90m at 2.4m back from the road edge.
- The planner's report notes that the level of development in the general area is not an immediate concern and the house design is of a high architectural standard.
- The proposal does not unduly impact on the established residential amenities in the area.
- The owners of the adjoining dwelling are not concerned with the proposed development.
- The proposed design ensures that there is no west facing windows at first floor level and this addresses any potential overlooking.
- The existing dwelling has only two small windows on its eastern elevation serving bathroom facilities.
- The proposed dwelling is sited 18.6m from its site boundary and 40m from the adjoining property.
- The distance between the properties will ensure that there will be no overshadowing.
- It is contended that the proposed house is of high architectural standard and appropriate to the rural area.
- Proposed landscaping would ensure further protection for both properties. The applicants have no objection to the attachment of a condition in relation to landscaping.

8.0 RESPONSES

Second Party Response

The following is the summary of a response submitted by the local authority;

- Based on the grounds of refusal there are no further comments on the appeal submission.
- Should the appeal be successful the issues raised in the planning report would need to be addressed.

9.0 ASSESSMENT

The main issues to be considered in this case are: -

- Principle of Development
- Residential Amenities
- Design and Context
- Other Issues

Principle of Development

A key consideration in this appeal relates to the applicant's rural housing need in this area and as such whether this housing need complies with the provisions of the Cork County Development Plan, 2014 – 2020, and the Sustainable Rural Housing Guidelines, 2005.

I would note from the supplementary planning application form which accompanied the planning application that the primary applicant is a local rural person who intends to build a house for her own occupation adjacent to her parent's house.

I would acknowledge that Figure 4.1 of the Cork County Development Plan, 2014 – 2020, sets out the rural area types and the appeal site is located in the area designated 'Rural Area under Strong Urban Influence'. Section 4.4.3 of the Cork County Development Plan, 2014 – 2020, sets out the criteria required to be met in order to be considered eligible for a one off rural house in areas designated 'Rural Area under Strong Urban Influence'. The local need criterion includes the following;

- *Farmers, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm.*

This is not the case.

- *Persons taking over the ownership and running of a farm on a full-time basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.*

This is not the case.

- *Other persons working full-time in farming, forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.*

This is not the case.

- *Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.*

This would be the case.

- *Returning emigrants who spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation,*

who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.

This is not the case.

On the basis of the rural area type where the appeal site is located, i.e. Rural Area under Strong Urban Influence, and the basis of the applicants submitted application I would conclude that the applicant would have a genuine rural housing need in this location. However there is a range of other planning considerations that must be assessed. Accordingly I would conclude that the proposed development is acceptable in principle.

Residential Amenities

I would consider that a number of factors in the current proposal would determine the actual impact of the proposed development on the established residential amenities of the neighbouring property. These include orientation and layout of the proposed house in relation to the neighbouring property, the separation distances of the respective properties and the design of the proposed house. Another issue, although a mitigating factor, is provision of screening.

On the basis of the submitted drawings I would conclude that the proposed house is adequately set back from the existing two-storey house. The proposed house is set back at its nearest point approximately 41.5 metres from the existing house. The proposed house is situated to the north-east of the existing house and is single storey in height at its closest point to the existing house. Having regard to the orientation of the proposed house in relation to the established house I would not consider that the proposal would overshadow any established residential amenities.

The western elevation of the proposed house has no first floor windows. Having regards to established and proposed landscaping on the subject site I would not consider that the proposed house would cause any undue overlooking on the established residential property.

Having regard to the visual impact of the proposed development on established property I would consider that the proposed screening and the separation distance would mitigate any adverse visual impact on the established residential amenities. Furthermore the proposed design (discussed further below) is single storey when facing onto the established residential property which is a mitigating factor.

Overall I would consider that the proposal would not unduly impact on the established residential amenities of the area and therefore I would not concur with the local authority's second reason for refusal.

Design and Context

I would acknowledge that the local authority is concerned that the proposed layout submitted lends itself to another application for a house at the northern end of the site. I would accept this view based on the submitted site layout however the Board can only deal with the merits of the current proposal rather than assuming any future development proposals. I would also acknowledge the local authority's view that appeal site is a large residential site as opposed to a family landholding. The overall size of the family owned site is approximately 2.5 ha. On the basis of these concerns I would consider that a single house on the appeal site would be acceptable given the applicant's local housing need however two additional houses would alter the character of this rural area and in my view set an undesirable precedent for the area. Therefore I would recommend to the Board, should they favour granting permission, that a condition is attached requiring that no further housing is permitted on the site.

The proposed design is contemporary in character and its layout, which includes a link corridor, ensures that the impact of any massing is minimised. The proposed front elevation is two-storey in height and the front elevation is approximately 16 metres wide. Although the scale of the proposed house is large I would consider that the scale of the proposed front elevation is not dissimilar to the scale of the established house adjoining the appeal site and therefore would not be out of character with the area.

In terms of visual impact from the public road the proposed house is removed from the public road and is also screened from view due to established mature trees / vegetation along the western boundary of the site adjoining the public road.

I would note from the provisions of the Cork County Development Plan, 2014 – 2020, that the appeal site is not located within a 'high value landscape area' or a 'scenic route'. Overall I would consider that the design of the proposed house is acceptable and would not unduly impact on the established visual amenities in the area.

Other Issues

In relation to vehicular access onto the public road it is proposed to use the established access. The established access serves the existing house on the site and I noted from a visual observation of the area that the sightline provision from the established entrance in both directions is generally good.

The Area Engineer, in his report dated 26th September 2014, states that further information is required requesting the applicant to demonstrate a minimum sightline distance of 90m in each direction from a point 2.4m back from the public road. The appeal submission confirms that these

sightline provisions are available. Therefore should the Board favour granting permission I would recommend that a condition is attached requiring that the existing vehicular entrance has a 90m sightline vision in either direction from a point of 2.5m from the edge of the public road.

In relation to waste water treatment I would note from the submitted Site Characteristic Form that the recorded T-value is less than 3. The E.P.A. publication, Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses states in Table 6.3 that where T-values are less than 3 that *'if effluent is pretreated to tertiary quality then the site will be hydraulically suitable to assimilate this hydraulic load'*. The Site Characteristic Form recommends a proprietary packaged wastewater treatment system and a packaged tertiary treatment filter be used. The Area Engineer, in his report dated 26th September 2014, considers the proposal acceptable. I would consider that the waste water treatment proposals are acceptable.

10.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the site, the nature of the proposal, the policies of the Cork County Development Plan, 2014 – 2020, and the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, it is considered that, subject to compliance conditions set out below, the proposed development would not be prejudicial to public health or the amenities of the area and would be acceptable in terms of traffic safety. The proposal would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, 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 dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons

who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(2) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (1) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of development, the owner of the site shall enter into an agreement with the planning authority, pursuant to section 47 of the Planning and Development Act, 2000, agreeing to sterilise free from any future residential development, the land outlined in blue on the submitted site location map to the local authority on the 19th day of August 2014.

Reason: The proposed site is located in a rural area where it is considered necessary to restrict the number of new houses in the area.

4. The entire premises shall be used as a single dwelling unit only.

Reason: To prevent unauthorised development.

5. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

6. The proposed vehicular entrance shall be designed and constructed in accordance with the requirements of the planning authority. Details shall be agreed with the planning authority prior to the commencement of development.

Reason: In the interests of traffic safety.

7. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

8. Water supply and drainage arrangements, including the disposal of surface 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.

9. The sewage treatment and disposal system shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details shall be agreed with the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

10. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

11. Prior to the commencement of development the applicant shall submit details of boundary treatment and a landscape scheme for the proposed development site for the written agreement of the planning authority.

Reason: In the interests of visual amenity.

12. 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.

Kenneth Moloney
Planning Inspector
10th February 2015