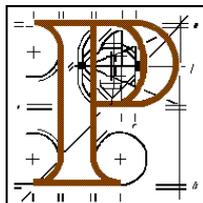


An Bord Pleanála



Inspector's Report

Development: Construction of a house and associated works at Ballea, Carrigaline, Co. Cork.

Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 14/05954

Applicant: Richard O'Donovan

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: 26th February 2015

Inspector: Kenneth Moloney

1.0 SITE DESCRIPTION

The subject site is located in a rural area outside Carrigaline. The public road onto which the site faces is a local rural road. The subject site is an elevated site with partial views over Cork Harbour.

The size of the appeal site is approximately 0.35 ha (0.8645 acres) and the shape of the appeal site is irregular.

The appeal site currently forms part of the curtilage of an existing dwelling and is partly used for grazing land. The gradient of the appeal site falls to the east.

There is a part single storey / part two-storey house located west of the appeal site and there a narrow stretch of land located between this existing house to the west and the appeal site.

The roadside boundary on the appeal site is a dense laurel hedgerow which rises to a height of approximately 5 metres on a raised road side bank. On the opposite side of the public road there is a small deciduous plantation of mature trees.

2.0 PROPOSED DEVELOPMENT

The proposed development is for the construction of a single storey dwelling, septic tank treatment unit, detached garage and revisions to existing vehicular entrance.

The floor area of the proposed house is approximately 245 sq. metres and the floor plan comprises of 3 bedrooms and living area. The maximum roof height of the proposed house is approximately 7.3 metres above ground level.

The floor area of the proposed detached garage is approximately 36 sq. metres. The maximum height of the proposed garage is approximately 6 metres above ground level.

3.0 PLANNING AUTHORITY'S DECISION

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

1. The proposed development would be situated on elevated, exposed, prominent and sloping hillside site that forms part of the A1 zone of the Metropolitan Greenbelt of Cork, affording extensive views over the rural landscape, Carrigaline and the Owenboy River Estuary. As indicated in the County Development Plan RCI 8 – 4, it is the Council's stated policy to protect those prominent hilltops, valley sides and ridges that define the character of Cork. It is considered that the proposed

development by reason of sitting, form, height, design and entrance would form an unduly prominent feature on the rural landscape, would seriously detract from the visual amenities of the area, involve excessive levels of cutting and filling, and would not fit appropriately into the rural landscape at this location. The proposal would materially contravene objectives of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be located in an area designated A1 Metropolitan Greenbelt in the Cork County Development Plan, 2009, where it is an objective to retain the open and rural character of lands in the greenbelt between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built up area and provide for appropriate land uses that protect the physical and visual amenity of the area. In the A1 zone, it is also an objective to recognise that exceptional individual housing needs of people engaged in agriculture / landowners with a genuine connection to the area, or their immediate family members may arise from time to time with the A1 Greenbelt area. The Planning Authority is not satisfied that the applicant has demonstrated that he has an exceptional housing need to qualify under the requirements of RCI 8-4. The Planning Authority also considers that the proposed development of a dwelling house on this site would lead to expectation of permission on adjoining lands and is concerned that the granting of this application might give rise to similar precedents which, cumulatively, would further erode the green belt along the road. The proposal would therefore, be contrary to the objectives of the County Development Plan and be contrary to the proper planning and sustainable development of the area.

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

- Area Engineer: Additional information sought in relation to (a) wastewater treatment system, (b) surface water drainage, and (c) sight distance.
- Irish Water: No objections subject to conditions.

Third Party Submission: A submission from the neighbouring resident confirms that they have no objections to the proposed development. The submission requests that the boundary hedge is restricted to a height of 1m to retain views of Cork Harbour.

4.0 PLANNING HISTORY

- There is no recent relevant planning history on the subject 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 Metropolitan Cork Greenbelt.

Policy Objective RCI 4-1 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.

The relevant policies in relation to the proposed development include;

Policy RCI 5-1 – Maintain Greenbelt

Policy RCI 5-4 – Exceptions over a period of time will eventually erode the Greenbelt

Policy RCI 6-4 – Occupancy Conditions

Chapter 13 relates to Green Infrastructure and Environment and the following policies are relevant;

Policy GI 6-1 – Landscape

Policy GI 8-1 – Greenbelt

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

The Planning Partnership submitted an appeal on behalf of the applicant. The following is a summary of the main grounds of appeal.

Site History

- The pattern of development in the area provides for the proposed development.
- A dwelling has been constructed just 150m from the site in 2010.
- There have also been some extensions in the area.
- The following includes some precedents for development in the area;

- L.A Ref. 09/6629
- L.A Ref. 06/10221
- L.A. Ref. 06/4502
- L.A. Ref. 04/5404
- Permission has been granted for houses in the area in land that is designated A1 Green Belt.

Material Contravention

- The Board are referred to Section 7-15 of the Development Management Guidelines.
- It is contended that the objective to protect the prominent open hilltops is not sufficiently specific or measurable. Secondly it is contended that the proposal will not adversely impact on the visual amenity or the landscape character of the area.

REFUSAL REASON NO. 1

Prominence on the Landscape

- It is considered that the local authority assertion that the proposed development would be unduly prominent is unfounded.
- The proposed development is single storey with a maximum height of 7.3 metres. This is a lower profile than any neighbouring structures.
- The proposed development has been architecturally designed to a high standard.
- Ballea Hill would form the backdrop for the proposed development. The proposal would not be sufficient height or massing to break the ridgeline.
- It is contended that the orientation of the site in relation to nearby Carrigaline renders it largely hidden from the main approach road.
- A submitted image, Figure 2, illustrates that the site is well shielded by vegetation.
- The neighbouring structure to the east is partially visible.
- It is contended that the conclusion by Cork County Council that the proposal would be unduly prominent is subjective and unfounded.
- It is submitted that a previous case, i.e. L.A. Ref. 13/5640, which related to a house on a site located approximately 7.5km from the appeal site sets a precedent for the proposed development. The Senior Planner recommended refusal on the grounds of visual impact however the Director of Services sought additional information requesting the applicant to erect ridge poles on the site.
- It is submitted that there is already several houses in the area, including the applicant's parent's house, and the argument that the proposed development would have an unacceptable adverse visual impact is unfounded.
- It is contended that the visual assessment by the planning authority is limited as it only contains photos from the site rather from various perspectives looking towards the site.

- It is submitted that the development relating to L.A. Ref. 13/5640 is clearly visible from the scenic route and this is not a consideration in the current case.
- The subject site is well distanced and shielded from nearby scenic route S57.
- It is submitted that based on the design and height of the building proposed and the lack of suitable data that the planning authority's view that the proposal would be 'unduly prominent' is unsubstantiated.

Visual Amenity

- It is submitted that there is sufficient hedgerows and trees in the vicinity that would provide extensive screening of the proposal.
- It is not considered that the proposed development will have a serious impact on the visual amenity of the area.
- The surrounding area is subject to a number of houses.
- It is contended that the level of impact on visual amenity caused by the current proposal would be acceptable and consistent with the pattern of development.

Cutting and Filling

- The site is located on a gently sloping hillside with a 4 metre drop from the western to the eastern boundaries.
- It is submitted that the levels of cutting and filling would not be excessive.
- The submitted Figure 7 illustrates that only a minimal level of cutting is required to level the site and the proposal largely complements the natural slope of the area.
- The applicant intends to reuse any excavated material for the purpose of landscaping.
- The Board are requested to disregard reason no. 1 of the Local Authority's refusal with regard to excessive cutting and filling.

Cork Rural Design Guidelines

- It is submitted that the proposed development is consistent with the relevant criteria of this document including;
 - Careful Site Selection
 - Well Considered Site Layout
 - Appropriate House Design
 - Landscape Design
 - Good Construction
- This document also provides guidance of ideal design scenario on a south facing slope where the site is below the road and this includes (a) septic tank located to the rear of the house, (b) set back distance from road with boundary treatment, (c) garage is located to the rear.
- It is submitted that on the basis of the Cork Rural Design Guidelines that the subject proposal is appropriate and will have minimum impact on the area.

REFUSAL REASON NO. 2

- It is considered that the description of the character of the area as 'open and rural' is questionable given the location of the site with its proximity to Carrigaline development boundary and also the area is subject to ribbon development.
- It is contended that in considering the character of the area that the context is important.
- It is argued that there is extensive residential development in the area.
- It is contended that the landscape has the capacity to accommodate this development without significant impacts or a contravention of the A1 Green Belt objectives.

Precedents for the Proposed development

- L.A. Ref. 09/6629 relates to the granting of permission for a house on a site approximately 150 metres from the appeal site. Many of the planning concerns that related to this case are also relevant to the current proposal.
- In relation to L.A. Ref. 13/5640 the Director of Services stated that there may be different interpretations of the text of Objectives RCI 8-4 of the County Development Plan, but as the applicant is the son of the landowner an exception can be made to the settlement policy restrictions. The circumstances of the current applicant are almost identical to those in the case of L.A. Ref. 13/5640. The Board are therefore requested to disregard the section of the refusal reason in refusal reason no. 2 that relates to housing need.
- It is submitted that the local authority Liaison Officer recommended refusal with the omission of reason no. 2 as it was considered that the applicant had a genuine connection to the area.
- It is contended that exceptional housing need in the Cork County Development Plan (Objective RCI 8-4) is open to interpretation.
- It is submitted that permissions for similar developments have been granted since the making of the development plan thereby providing a precedent for the current proposal.
- It is submitted that the proposed development would not be a material contravention of the Cork County Development Plan and the decision has not adhered to the Development Management – Guidelines for Planning Authorities.

Supporting Policy Material

- It is contended that the decision of the Planning Authority is not consistent with the Sustainable Rural Housing Guidelines, 2005.
- The housing need of rural dwellers who may be working in nearby urban areas is referred to as 'rural generated housing'.
- It is submitted that the applicant is considered an intrinsic part of the rural community in accordance with the provisions of the Sustainable Rural Housing Guidelines, 2005.

Normal Planning and Sustainability Criteria

- It is submitted that the proposal does not undermine the overall Greenbelt objectives and it is considered that Policy RCI 8-4 relating to housing need is unclear and open to interpretation.
- The proposed development complements the settlement pattern of the area.
- It is contended that the design and scale of the proposed development is appropriate and sensitive to the location.
- It is contended that the proposed development is shielded from the nearby scenic route by natural topography and existing vegetation and is not considered visually obtrusive.
- It is submitted that the traffic speeds on the local road are generally low and that sightlines can be improved with limited alterations to the adjoining hedgerow.
- The proposed development is compliant with the EPA requirements for on-site waste water treatment systems.
- The subject lands are not subject to archaeological or heritage factors.
- The subject lands are not located within a scenic or nature conservation designated area.

8.0 RESPONSES

None

9.0 ASSESSMENT

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

- Principle of Development
- Visual Impact
- Other Issues

Firstly, however the Board will note that, the Planning Authority's first reason for refusal stated that the proposal would "materially contravene" the policy objectives of the County Development Plan. Although the Board is constrained by Section 37(2) of the Planning and Development Act 2000 – 2010, the proposed development is not, in my view, a material contravention of the Cork County Development Plan, 2014 – 2020, and the approval of the proposal, should the Board be so minded, is not of a significance which undermines the provisions or relevant objectives of the Development Plan.

Principle of Development

A key consideration in this appeal relates to the applicant's rural housing need in the 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 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 ‘Metropolitan Cork Greenbelt’ and therefore Policy GI 8-1 of the County Development Plan is relevant. This policy objective states ‘*protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements*’.

The Metropolitan Cork Greenbelt is an area under strongest urban pressure for rural housing. Accordingly applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need.

In accordance with the information on the file the appeal site is owned by the applicant’s father. It is outlined that the subject site will be legally transferred to the applicant once planning permission for the proposed house is obtained. Notwithstanding this I would note that there is no documentation on the file demonstrating the applicant’s genuine rural housing need in terms of connections to the local area i.e. birth certificate, school records or current employment status.

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 the ‘Metropolitan Cork Greenbelt’. 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.

- *Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principle family residence for a minimum of seven years prior to the date of the planning application.*
- The Local Authority planner's report indicates that the existing house to the south of the appeal site is the applicant's family home which obtained planning permission on foot of L.A. Ref. 98/4661.

I would consider that Policy RCI 4-1 of the County Development Plan is unambiguous and on the basis that the applicant is the landowner's son and now wishes to reside beside his family home the principle of a rural housing need in this area is acceptable. I would consider that the applicant would generally satisfy the local need criterion for a rural house within an area designated Metropolitan Cork Greenbelt however there is a lack of detail with the application demonstrating this. I would not concur with the local authority's refusal reason in relation to this matter however having regard to the substantial issue outlined below in relation to visual impact I would not recommend to the Board to seek further information in relation to the applicant's rural housing need.

Visual Impact

The appeal site is located to the south-west of the regional road R613 which is a designated Scenic Route in accordance with the provisions of the Cork County Development Plan, 2014 – 2020. Volume Two 'Heritage and Amenity' of the Cork County Development Plan, 2014 – 2020, describes this specific Scenic Route, i.e. S57. This view is described as 'views of open countryside, sheltered wooded areas and the Owenboy River' and the overall landscape value is categorised as 'High – Very High'.

The relevant policy provision in the County Development Plan is 'Policy GI 7:2 Scenic Routes' and this policy states it is an objective to '*protect the character of those views and prospects obtainable from Scenic Route and in particular stretches of scenic routes that have very special views and prospects identified in this plan*'.

I noted from a visual observation of the area that the topography of the general environs of the appeal site falls to the north and east towards the R613. Therefore the appeal site is situated on elevated land in relation to the Scenic Route. A predominant feature of the view from the designated Scenic Route, in my opinion, is the wooded river valley and its setting.

I would acknowledge that there is an established mature roadside boundary along the northern side of the appeal site and also there is a small plantation on the opposite side of the public road. I would accept that the roadside hedgerow and the small plantation would provide screening

for the appeal site from the Scenic Route. However as the gradient of the appeal site increases from the public road to the southern and western end of the subject site, i.e. the location of the proposed house, the site is then situated on higher ground than the roadside boundary.

I conducted a visual assessment of the proposed development along the Scenic Route (R613) and I would conclude, based on this assessment, that the proposed single storey house would be partially visible along the Scenic Route when driving or walking in a western direction from Carrigaline. I would consider that the onus is on the applicant to demonstrate that there will be no degradation of the views towards visually vulnerable features nor would there be significant alterations to the appearance or character of sensitive areas.

I would consider that the proposed development would impede these views and would therefore be contrary to the provisions of the Cork County Development Plan, 2014 – 2020, in particular Policy GI 7 – 2, which aims to protect and maintain these views. I would consider that the proposal would be visually obtrusive and would adversely impact on the visual amenities of the area.

Access

The Area Engineer, in his report requests additional information requiring the applicant to submit a revised drawing requiring adequate sightline provision from the proposed vehicular entrance.

However having regard to the substantial issue outlined above in relation to visual impact I would not recommend to the Board to seek further information in relation to vehicular access.

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 refused for the reason set out below.

REASONS AND CONSIDERATIONS

1. Having regard to the location of the proposed house on a prominent upland site, it is considered that the proposed development would seriously injure the amenities of the area, set an undesirable precedent for other such development and would be visible from a designated Scenic Route, i.e. S57, in accordance with the County Development Plan and would therefore be contrary to Policy GI 7-2 'Scenic Routes' of the Cork County Development Plan, 2014 – 2020. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
31st March 2015