



An  
Bord  
Pleanála

## Inspector's Report ABP-305983-19

### Development

The construction of a new dwelling house and domestic garage, installation of a bored well, septic tank and percolation area, widening of the existing farm entrance to facilitate the site entrance, the creation of a new farm access and all associated site works.

### Location

Lisheenroe, Knockraha, Co. Cork.

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

19/15016

### Applicant(s)

Ian O'Mahony & Sinead Kennedy

### Type of Application

Permission

### Planning Authority Decision

Grant, subject to 19 conditions

### Type of Appeal

Third Party -v- Decision

### Appellant(s)

Martin Carney & Stephanie Cadogan

### Observer(s)

None

**Date of Site Inspection**

30<sup>th</sup> January 2020

**Inspector**

Hugh D. Morrison

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
4.0 Planning History.....	6
5.0 Policy and Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations .....	6
5.3. EIA Screening .....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	8
6.3. Planning Authority Response .....	10
6.4. Observations .....	10
6.5. Further Responses.....	10
7.0 Assessment.....	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	15

## 1.0 Site Location and Description

- 1.1. The site is located 5km, “as the crow” flies, SSE of Watergrasshill. This site lies off the point of a 90-degree bend in the L6984, a local secondary road, which drops south from the L3602, 3.2km to the north. This local secondary road passes through woodland and farmland. The site is accessed via a pair of farm gates off this bend. Likewise, an adjacent cottage and farmstead are accessed separately off it. These buildings are presently being renovated by the appellants.
- 1.2. The main body of the site is rectangular, and it extends over the NW corner of an extensive grassland field. This site has an area of 0.34 hectares and its northern boundary abuts a farm track, which is served by the aforementioned gates. The western boundary is denoted by a hedgerow. The remaining boundaries are undefined.

## 2.0 Proposed Development

- 2.1. The proposal would entail the construction of a two-storey four-bed dwelling house (278 sqm). The principal elevation of this dwelling house would face east and it would include a projecting two storey feature. The rear elevation would face east and it would include a projecting single storey feature. This proposal would also entail the construction of a garage (42.29 sqm) in the NE corner of the site.
- 2.2. As originally submitted, the proposed dwelling house and the existing farm track would have been served by separate site entrances off the above cited bend.
  - Under further information, the proposal was amended to show a single shared site entrance. Compared to the existing site entrance, this one would be re-orientated and formally laid out. It would access a shared space in the SE corner of which would be sited a pair of gates to the farm track and on the southern side of which would be a pair of gates to the driveway/apron around the dwelling house.
  - Under clarification of further information, the forward visibility of road users approaching the bend from the north was addressed and the removal of 25m of hedgerow from the western side of the local secondary road was proposed.

Such removal would occur on the northern side of this bend and partially along its inside.

- 2.3. The dwelling house would also be served by a bored well in the NE corner of the site and by a septic tank and percolation area, which would be sited in the SW corner. Surface water would drain to soakpits, which would be sited in positions adjacent to the eastern and western site boundaries.
- 2.4. The majority of the southern and eastern portions of the site would be laid out as garden and they would be bound by means of a timber post and wire fence and a hedgerow. The existing fence to the northern boundary would be augmented by a hedgerow and the existing hedgerow to the western boundary would be retained.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following receipt of further information, permission was granted subject to 19 conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The following further information was requested:

- Revised site entrance/layout requested to achieve improved sightlines.
- Comprehensive landscaping plan requested.
- Reconcile floor areas cited on forms and shown in plans.
- Submit N and E elevations of the garage.

The following clarification of further information was requested:

- Revised plan requested showing adequate forward visibility for drivers turning right into the proposed site entrance.

### 3.2.2. Other Technical Reports

- Area Engineer: Following clarification of further information, no objection subject to conditions.

## 4.0 Planning History

### Site

- Pre-application consultation (PPE 19/50) occurred on 19<sup>th</sup> February 2019.

### Adjacent sites

- 17/5370: 25.7 MW solar farm on 48-hectare site to the NE of the subject site: Permitted at appeal ABP-300434-19.
- 18/5967: Renovations, alterations and extensions to an existing derelict cottage, removal of existing derelict structure, and installation of WWTS, all to the N of the subject site: Permitted.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), the site is shown as lying within the County Metropolitan Cork Strategic Planning Area and a Rural Area Under Strong Urban Influence. Objective RCI 4-2 sets out criteria for assessing rural housing proposals in Rural Areas Under Strong Urban Influence.

### 5.2. Natural Heritage Designations

- Blackwater River SAC (002170)
- Great Island Channel SAC (001058)
- Cork Harbour SPA (004030)

### 5.3. EIA Screening

Under Items 10(b)(i) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2019, where more than 500 dwelling units would be constructed, the need for a mandatory EIA arises. The proposal is for the development of 1 new build dwelling unit. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### Housing need

- The applicants do not come from the immediate locality and they both work in Cork City. They, therefore, have no economic need to reside on the site.
- The male applicant is not a son of a farmer, but a nephew of the landowner, and he will not be taking over the running of the farm. Again, no economic need is evident.
- The appellants are, therefore, at a loss to understand the Planning Authority's decision, which would entail the loss of high-quality agricultural land.
- Objective NPO 19 of the NPF does not support those with an urban generated housing need building in the countryside. To accede to the proposal would thus establish an adverse precedent.

#### Safety and biodiversity

- The proposed site entrance would be off a 90-degree bend in the local road. (The long-established entrance to the appellants' old farm property is also off this bend, in a position immediately adjacent to the one now proposed). A blind spot for forward visibility thus exists.

- To improve visibility a section of stone wall would be removed along with a large mature tree that serves as a landmark for the said bend in the local road. Likewise, a section of hedgerow would be removed from the opposite side of the road and replaced by a post and wire fence. The former removal would diminish the character of the area and the latter removal would diminish its biodiversity. Local and national planning policies/objectives would be contravened thereby.
- Disquiet is expressed that the appellants were not given the opportunity to comment at the further information and clarification stages.
- The proposed site entrance would complicate traffic movements to and from the appellants' property.
- The efficacy of the above cited wall and hedgerow removals is questioned, especially for drivers approaching from the west who would then turn sharply right into the proposed site entrance.
- The applicants' speed survey is critiqued on the basis that it was undertaken over a 3-hour period one afternoon only.

## 6.2. Applicant Response

Attention is drawn to the appellants own circumstances, wherein they are not from the locality and yet they are building a new dwelling house in a position adjacent to the subject site. The substance of the grounds of appeal is questioned and the Board is invited, under Section 138(1)(a) of the Planning and Development Act, 2000 – 2019, to dismiss the appeal on the basis that it is vexatious.

Nevertheless, if the appeal is allowed to proceed, they respond to the above cited grounds as follows:

Housing need

- Objective RCI 4-2(d) of the CDP is cited. The male applicant is from the locality, i.e. White Oats, Killeena, Knockraha, which is 1.2 km away “as the crow flies”, and 3.8 km by road. He went to school locally and he is involved in the local GAA. Furthermore, he assists his uncle, a local farmer, on a part-

time basis. He thereby complies with the provisions of Item (d) of the said Objective.

- The aforementioned compliance was acknowledged during the pre-application consultation and confirmed by the Planning Authority's decision.

#### Roads and traffic safety

- The refined entrance proposals for the site would not only assist drivers accessing and egressing the same, but they would be of benefit to all users of the local roads in question, as forward visibility around the bend at issue would be improved.
- The relaxation in the y distance from 90m to 70m is justified under the Planning Authority's document entitled "Guidelines for sight distance at private entrances onto public roads." Thus, where speeds do not exceed 50 kmph, such relaxation is in order. The submitted representative speed survey illustrates that this would be the case.

#### Biodiversity

- The removal of a wall and ditch would be compensated for by the planting of the boundaries of the site with native species. Such planting would occur in advance of building works.

#### Rural character

- Due to the re-siting of the existing site entrance to a position further to the east, an existing wall and ditch would be removed. However, as the new site entrance would be enclosed by means of walls and piers finished in natural stone (in accordance with draft condition 9), an actual increase in the length of roadside stonework would arise.
- The development site would effectively be set back from the roadside and landscaped, thereby according with the Cork Rural Design Guide, which seeks to minimise the exposure of one-off dwelling houses to public roads.
- Rural character would thus be enhanced.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

- 7.1. The applicants have responded to the appellants, in the first instance, by drawing attention to their circumstances and by questioning the substance of their grounds of appeal. Consequently, they request that the Board exercise its discretion, under Section 138(1)(a) of the Planning and Development Act, 2000 – 2019, and dismiss the appeal as being vexatious.
- 7.2. I have reviewed the said grounds of appeal and I take the view that, as they relate to material planning considerations, the Board should not accede to the aforementioned request, but rather assess and determine the application/appeal in the normal manner.
- 7.3. I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:
- (i) Rural Settlement Policy,
  - (ii) Access,
  - (iii) Water, and
  - (iv) Stage 1 Screening for AA.

### **(i) Rural Settlement Policy**

7.4. Under the CDP, the site is shown as lying within a Rural Area under Strong Urban Pressure. Objective RCI 4-2 of this Plan sets out criteria for assessing housing proposals in this Rural Area.

7.5. The applicants have cited criterion (d) of the aforementioned Objective as the one upon which they are relying for their application. This criterion states the following:

*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.*

7.6. The applicants have completed a supplementary application form in which they state that Ian O'Mahony has resided in his parents' home for 29 years and that this home is in the locality of the subject site, i.e. 3.8km away at White Oaks in the townland of Killeena. They also state that he went to school locally and is involved in local sporting activities.

7.7. In the light of the foregoing information, the Planning Authority took the view that the applicant qualifies as a candidate under criterion (d). However, the appellants have challenged this view on the basis that, under Objective NPO 19 of the NPF, the applicants do not have an economic need to reside in a rural area.

7.8. Objective NPO 19 states the following:

*Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment and elsewhere: In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.*

Thus, this Objective establishes two core tests, i.e. applicants must demonstrate either an economic need or a social need to reside in a rural area.

7.9. In the light of the aforementioned Objective, the applicants' reliance upon Ian's residence in the locality and his attendance at local schools and involvement in local sporting activities clearly does not refer to any economic need and it does not amount to a social need to reside on the subject site in the rural area in question.

7.10. At the application stage, the applicants in their Accompanying Planning Report referred to criterion (a) of Objective RCI 4-2, too. This criterion states the following:

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

7.11. In the completed supplementary application form, the applicants state that the subject site is owned by Ian's uncle and that it forms part of his 25.09-hectare beef farm. They also state that Ian is engaged in part-time agricultural duties on this farm. Elsewhere on the said form, the applicants state that each of them is in full time engineering employment in Cork City.

7.12. Criterion (a) relates to the children of farmers rather than situations wherein uncle/nephew relationships pertain and so it is not applicable.

7.13. Beyond criteria (d) and (a), criterion (c) relates to persons "working full-time in farming". However, again, Ian does not fall within this criterion as he works full-time in engineering and his agricultural duties are only part-time.

7.14. Objective NPO 19 is set out in the NPF and so it takes precedence over the CDP, which was adopted prior to it and, in practice, does not fully reflect its provisions. This Objective also refers to the viability of smaller towns and rural settlements of which there are several within the wider area of the subject site. Existing and new housing is available in these towns/settlements and its take up ensures their continuing viability.

7.15. I conclude that, under Objective NPO 19 of the NPF, the applicants are not candidates for a dwelling house on the site.

#### **(ii) Access**

7.16. The access proposals for the site were the subject of attention at the application stage, under further information and clarification of that information. Consequently, the Planning Authority permitted a single access that would serve both the pre-existing farm track and the proposed dwelling house. Sightlines available from this access would have x and y dimensions 2.4m and 70m. The latter dimension would represent a relaxation from the normal 90m, based on the applicants' speed survey of the L6984 in the vicinity, which indicated that speeds, in practice, do not exceed 50 kmph.

- 7.17. The proposed site entrance would replace an existing one on the outside of a bend in the local road. Essentially, to the north, this road runs on a north/south axis and via the bend it runs on an east/west axis, to the west. The said entrance would be sited at effectively the end of the north/south axis. The forward visibility available to road users would preclude sight of a vehicle waiting to turn right into the new site entrance. Thus, the applicants propose to replace a 25m stretch of hedgerow on the inside of the said bend and extending northwards with a timber post and wire fence, to ensure that such a vehicle would be visible.
- 7.18. The appellants have critiqued the above access proposals. In this respect, they are concerned that the proposed site entrance would complicate access to their own property, which is undergoing renovation to the north of the subject site and which is likewise accessed off the aforementioned bend. They question the representativeness of the applicants' speed survey and they express concern over both the loss of a "landmark" tree and stone walling to facilitate the new site entrance and the aforementioned hedgerow, on aesthetic and biodiversity grounds.
- 7.19. The applicants have responded to this critique by stating that the improvements to forward visibility would benefit all users of the local road, including the appellants. They insist that their speed survey is representative, and they draw attention to replacement walling that would be comprised in the formally laid out site entrance and the compensatory hedgerow planting that would be comprised in their proposed garden.
- 7.20. During my site visit, I observed that the local road is a single lane one, which is heavily potted holed. Traffic volumes were low, as were traffic speeds, and so I have no reason to question the representativeness of the applicants' speed survey and, thus, the basis that it provides for the relaxation in the y distance. I also observed the "landmark" tree. While this tree stands on the outside of the bend in the local road, it is accompanied by other roadside trees and so its role as a marker for the said corner is not especially pronounced on approach from either the north or the west.
- 7.21. I concur with the applicants' rebuttal of the appellants' aesthetic and biodiversity concerns.
- 7.22. I conclude that the proposal would be capable of being accessed in a satisfactory manner.

### **(iii) Water**

- 7.23. Under the proposal, potable water would be supplied from a well, which would be bored in the NE corner of the site and foul water would be handled by means of a septic tank and a percolation, which would be sited in the SE corner.
- 7.24. The applicants have undertaken a site characterisation exercise, which indicates the appropriateness of the proposed means of handling foul water.
- 7.25. Surface water would drain to soak pits, which would be designed in accordance with BRE 365 and which would be sited in positions adjacent to the eastern and western boundaries of the site.
- 7.26. The OPW's flood maps do not show the site as being the subject of any identified flood risk.
- 7.27. The proposal would raise no water related issues.

### **(iv) Stage 1 Screening for AA**

- 7.28. The site is not in or near to any Natura 2000 sites. The nearest such sites are the Blackwater River SAC, the Cork Harbour SPA, and the Great Island Channel SAC. I am not aware of any source/pathway/receptor route between this site and these sites and so the proposal would raise no Appropriate Assessment issues.
- 7.29. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that this proposal would be likely to have a significant effect individually or on combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. That permission be refused.

## 9.0 Reasons and Considerations

Under the Cork County Development Plan 2014 – 2020, the site of the proposal is shown as being located within the County Metropolitan Strategic Planning Area and a Rural Area under Strong Urban Influence. Under National Policy Objective 19 of the National Planning Framework, it is national policy to facilitate the provision of single housing in the countryside, in such areas, based on the core consideration of demonstrable economic or social need to live in a rural area and having regard to siting and design criteria and the viability of smaller towns and rural settlements.

Having regard to the location of the subject site, within the catchment of Cork City and its proximity to smaller towns and rural settlements, and also having regard to the documentation submitted with the application, specifically, concerning (a) the applicants' work, which is not an agricultural based activity, and their place of full time employment in Cork City, and (b) the social circumstances of the applicants, the Board is not satisfied that the applicants have demonstrated an economic and social need to live at this specific rural location, or that the applicants' housing need could not be satisfactorily met in a smaller town or settlement.

Accordingly, to permit this proposal, in these circumstances, would contravene National Policy Objective 19 of the National Planning Framework and so be contrary to the proper planning and sustainable development of the area.

---

Hugh D. Morrison  
Planning Inspector

20<sup>th</sup> February 2020