



An
Bord
Pleanála

Inspector's Report ABP-307201-20

Development	Construction of dwelling and garage and all related site works.
Location	Fiddane North, Mallow, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/04353
Applicant(s)	Linda Daly & Michael Healy
Type of Application	Permission
Planning Authority Decision	Grant, subject to 17 conditions
Type of Appeal	Third party V Grant
Appellant(s)	Denis & Evelyn O'Rahilly
Observer(s)	None
Date of Site Inspection	22 nd July 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The site is located approximately six kilometres south-east of Mallow and to the west of the L212-45, a secondary route linking Mallow with the N20 to the south-west. This site is located within rolling countryside, with the Rathcormack and Ballybrowney mountains to the east, and lower ground to the west. To the north of the site is a farm yard complex containing a number of farm buildings, to the east is the local county road, on the opposite side of the which is a two-storey farm dwelling on an elevated site, and to the south and west are agricultural lands. There is an existing stone piered narrow agricultural access to the site is from a local county road.
- 1.2. The site itself comprises an area of 0.34 hectares which would be taken from a family farm holding of approximately one hundred acres. This site is part of an agricultural field use for tillage purposes and is open to the south and west, with existing hedgerows to the north and east. Gradients on the site fall from east to west and north to south.

2.0 Proposed Development

- 2.1. The proposal would entail the siting of a four-bedroomed single-storey dwelling with a floorspace of 203 square metres located within the north east quadrant of the field. This dwelling would be of traditional built form with two low level pitched roof sections to be constructed each side of a single storey link. Its principal elevation would be east facing, and the finishes would comprise of painted plaster and the entrance area would be of natural stone with a pressed metal fascia.
- 2.2. The dwelling house would be accessed via a new entrance, approximately twenty-five metres south of the existing agricultural entrance which is to be closed and replaced with a sod and stone wall and new hedgerow. This proposed dwelling would access the existing public watermains and would be served by a septic tank system and percolation area, which would be sited to the west of the proposed dwelling. The existing hedgerows on site to the north and east would be retained and supplemented with new hedgerows to the south and west of the site.

2.3. Further information was submitted in relation to demonstrating adequate sightlines in both directions from the proposed entrance point and submitting a landscape plan incorporating the set-back requirements to achieve the requisite sightlines.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of further information, permission was granted subject to seventeen conditions. Relevant conditions include:

Condition number two: Seven-year occupancy clause.

Condition number four: Landscaping and planting.

Condition number six: Natural stone to be used with porch feature.

Condition number thirteen: Septic tank design and construction.

Condition number sixteen: Connection agreement with Irish Water.

Condition number seventeen: Development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Under further information, a number of matters outlined in Section 2.3 above were raised.

3.2.2. Other Technical Reports:

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

4.0 Planning History

I am not aware of any planning history pertaining to the appeal site.

5.0 Policy Context

5.1. Development Plan

The Cork County Development Plan 2014-2020 is the relevant Development Plan to be considered as part of this assessment. Within this plan the site is shown as lying within the Rural Area under Strong Urban Influence, within which the provisions of Objective RCI 4-2 are applicable to proposals for new dwelling houses.

Chapter 4: Rural, Coastal and Islands:

RCI 1-1: Rural Communities:

Strengthen rural communities and counteract declining trends within the settlement policy framework provided for by the Regional Planning Guidelines and Core Strategy, while ensuring that key assets in rural areas are protected to support quality of life and rural economic vitality.

RCI 2-1: Urban Generated Housing:

Discourage urban-generated housing in rural areas, which should normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network.

RCI 2-2: Rural Generated Housing:

Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

Section 4.3: Identifying Rural Area Types:

RCI 4-2: Rural Area under Strong Urban Influence.

The rural areas of the Greater Cork Area (outside Metropolitan Cork and the Town Greenbelt areas) are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to a particular local rural area, and in this regard, must demonstrate that they comply with one of the following categories of housing need:

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

- b) Persons taking over the ownership and running of a farm on a fulltime 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.
- c) Other persons working fulltime 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.
- d) 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.
- e) 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.

Section 4.4: Categories of Rural Generated Housing Need:

Section 4.4.2: This plan recognises the positive benefits for rural areas to sustain and strengthen the vibrancy of rural communities by allowing qualifying applicants to build a first home for their permanent occupation in a 'local rural area' to which they have strong economic or social links as defined in the following objectives RCI 4-1 to RCI 4-5. The meaning of 'local rural area' is generally defined by reference to the townland, parish or catchment of the local rural school to which the applicant has a strong social and / or economic link.

Chapter 13: Green Infrastructure and Environment:

Section 13.5: *Landscape*

Section 13.6: *Landscape Character Assessment of County Cork*

GI 6-1: Landscape:

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.

- b) Landscape issues will be an important factor in all land use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

GI 6-2: Draft Landscape Strategy:

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

Section 13.7: Landscape Views and Prospects:

GI 7-1: General Views and Prospects:

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 (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

The site is located in an area identified as Fissured Fertile Middle ground (Area 10b) in Landscape Character Assessment (Appendix E) of the Plan. These locations are designated as areas with a medium landscape value and high sensitivity, of county importance, with the ability to accommodate limited development pressure.

The following policies are also relevant:

- RCI 6-1: Design and Landscaping of New Dwelling Houses in Rural Areas.
- RCI 6-2: Servicing Individual Houses in Rural Areas.

The Cork Rural Design Guide: Building a New House in the Countryside, 2003 is also considered relevant.

5.2. **National Planning Framework**

Policy Objective 19 is to: '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;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appellants, Mr & Mrs Rahilly, (who reside in the neighbouring house, east of the appeal site on the opposite side of the county road) concerns are synopsised as follows:

Mapping Errors:

- The applicants have stated within their application that they do not own any lands, yet, approximately one hundred acres of lands are outlined in blue within the accompanying land holding maps. These lands are in the ownership of one of the applicant's parents.

Access:

- The proposed entrance is located directly across the road from the appellants entrance which would result in the creation of a safety hazard.
- The appellants entrance serves their farm and dwelling development where tractors, trailers and lorries need to access the appellants farm entrance.

Location/layout of proposed development:

- The proposed location of the dwelling directly across the road from the appellants dwelling would have an adverse impact upon their amenities by reason of overlooking and privacy.
- The location of the proposed dwelling across the road from an existing dwelling is out of character for the area, as there are no other dwellings opposite each other or overlooked along this road. If dwellings are on both sides of the local road, their layouts are staggered so as to obviate overlooking.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

Response received confirming that planning permission was recommended having regard to the nature and scale of the development, the site context and the relationship with neighbouring property, along with the recommendation of the Area Engineer.

7.0 Assessment

I consider that this application/appeal should be assessed under the following headings:

- (i) Principle of Development,
- (iii) Layout, siting, and design,
- (iii) Traffic and access,
- (iv) Appropriate Assessment

7.1. Principle of development

- 7.1.1. Under the Cork County Development Plan 2014, the site is shown as being within the Rural Housing Policy Area Type (RHPAT) RCI 4-2: Rural Areas Strong Urban Influence and Town Greenbelts (GB 1-1). Under this policy, applicants must satisfy the Planning Authority that their proposals constitute a genuine rural generated housing need. To this end, five criteria are set out as an expression of such need, and applicants must demonstrate compliance with at least one of these to be a candidate for a rural dwelling.
- 7.1.2. The applicants have submitted a cover letter and a completed supplementary planning application form, in which Linda Daly states that the site is taken from the family farm holding which has been in the family for generations and the appeal site is adjacent to the family home. She is considered to qualify as a candidate for a rural dwelling house on the subject site under criteria (a) and (d). These criteria are as follows:
- (a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.
 - (d) 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.
- 7.1.3. The applicant states that she has resided at Upper Fiddane since her birth. By way of supporting information, she lists the local schools that she attended and the corresponding periods of time. The appellants' have not challenged this information. She also states that she has neither owned, obtained planning permission for, nor

built a dwelling house hitherto. Accordingly, I consider that she qualifies as a candidate for a rural dwelling house under criteria (a) and (d).

7.1.4. I am satisfied that the applicant qualifies as a candidate for a rural dwelling house on the subject site due to her compliance with criteria (a) and (d) of Objective RCI 4-2 of the County Development Plan.

7.2. Layout, siting, and design,

7.2.1. The advice of the Cork Rural Design Guide with respect to siting especially is emphasised in this respect. Objective RCI 6-1 of the Development Plan, likewise, emphasises the importance of a good fit within the landscape and the role of landscaping in this respect.

7.2.2. This site is within the vicinity of existing buildings, the existing family farm buildings immediately north of the appeal site and an existing dwelling, to the east of the site, on the opposite side of the county road. From the site sections submitted, it is evident that the proposed dwelling would be located at a point approximately four metres below the level of the adjoining county road. With the existence of the existing mature roadside hedgerow boundary, which is to be retained, save for the opening of the new domestic entrance, the difference in levels and the separation distance of approximately one hundred metres between the proposed dwelling and the appellants dwelling, that no overlooking or impact upon neighbouring amenities will arise in this instance.

7.2.3. The proposed dwelling would be located on the opposite side of the county road to the appellants dwelling. There is no policy objective set out within the Development Plan which precludes the construction of a dwelling on the opposite side of a road from an existing dwelling. I am satisfied that the proposed dwelling which would be located below the level of the road, with a maximum ridge height of approximately 5.6 metres. With the retention of existing hedgerow boundaries, it is considered that the proposals will not unduly impact upon the visual or residential amenities of neighbouring dwellings and would be appropriately sited adjacent to a cluster of existing farm buildings,

7.2.4. I consider that the siting, size, and design of the proposed dwelling house would ensure that its prominence within the local landscape is limited, and mature screening exists from the outset.

7.2.5. I conclude that, given the limited visibility of the proposed dwelling house and the mature screening that would be afforded by existing hedgerows, the dwelling house would be capable of being accommodated in a visually satisfactory manner within this landscape.

7.3. Traffic and access

7.3.1. The applicants are proposing to open a new domestic entrance approximately twenty-five metres south of an existing agricultural entrance which is to be closed and re-sodded and planted as part of these proposals. The applicants have demonstrated sightlines in accordance with best practice road safety standards and the Area Engineer has outlined no objections to the access proposals.

7.3.2. The appellants draw attention to the fact that their domestic/farm entrance which caters for large agricultural vehicles and lorry deliveries is located opposite the proposed domestic entrance.

7.3.3. I consider that the proposed access would afford a satisfactory means of access to the site and that it would be capable of accommodating the domestic traffic generated by the proposal and would not unduly impact upon the neighbouring domestic/agricultural entrance to the east.

7.3.4. I conclude that the traffic likely to be generated by the proposal would be capable of being accommodated on the adjoining local county road. I am satisfied that the proposed site entrance would be appropriate on this local county road.

7.4. Appropriate Assessment

7.4.1. Having regard to the nature and scale of the proposal and the nature of the receiving environment, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission be granted.

9.0 Reasons and Considerations

Having regard to the provisions of the National Planning Framework and the Cork County Development Plan 2014 – 2020, it is considered that the applicant is a candidate for a rural dwelling house on the family farm holding, subject to conditions, the proposed dwelling house on the selected site would be compatible with the visual amenities of the area and would not adversely impact upon the neighbouring residential properties by reason of overlooking, given that it would not be visually prominent by virtue of the existence of mature hedgerows and a considerable separation distance exists between the proposed dwelling and neighbouring residential properties. Furthermore, this dwelling house would be capable of being satisfactorily sited, accessed and serviced. No Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 21st day of February 2020 as amended by the further plans and particulars submitted on the 23rd day of March 2020 and the 14th day of April 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed.

Reason: In the interest of clarity.

2. (a) 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. Prior to commencement of

development, 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.

(b) 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 (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling 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. The water supply, including the attenuation and 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.

4. (a) The septic tank and percolation are shall be located, constructed and maintained in accordance with the details submitted to the planning authority with the application and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the septic tank system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. The landscaping scheme as set on the layout plan, as submitted to the Planning Authority on the 14th day of April 2020, shall be carried out within the first planting season following substantial completion of external construction works.

All existing planting shall be adequately protected from damage during construction. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. a) The natural stone entrance walls as detailed on the Site Layout Plan, as submitted to the Planning Authority on the 14th day of April 2020, shall be no more than 1m in height.

(b) The gradient of the access driveway shall not exceed 3% for the first seven metres adjacent to the carriageway of the public road.

Reason: In the interest of traffic safety.

9. The proposed domestic garage shall be used for domestic storage purposes ancillary to the proposed dwelling and shall not be used for any commercial or habitable use without a prior grant of planning permission.

Reason: In the interest of proper planning and sustainable development.

10. 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, as amended. The contribution shall be paid prior to 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.
- Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

Fergal O'Bric
Planning Inspectorate

24th August 2020