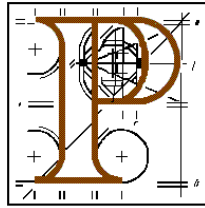


An Bord Pleanála



INSPECTOR'S REPORT

DEVELOPMENT: Construction of a dwelling

LOCATION: Lisgoold North, Leamlara, Co. Cork.

PLANNING APPLICATION

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 15/5918

Applicant: Jack Ryan

Type of Application: Permission

Planning Authority Decision: Refuse

PLANNING APPEAL

Appellant: Jack Ryan

Type of Appeal: First Party

Observers: None

DATE OF SITE INSPECTION: 7th January 2016

INSPECTOR: Mary Crowley

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site with a stated area of 208.4 sq.m is located in a predominantly rural area to the west of Lisgoold village. The site forms part of a larger flat field that fronts onto the local road. There are good views from within the site looking east. There is a single storey dwelling on a neighbouring site to the north and a mixture of house types occupying plots on the opposite side of the public road. The area is predominately agricultural but is characterised by a high volume of ribbon development
- 1.2 A set of photographs of the site and its environs taken during the course of both site inspections is attached. I also refer the Board to the photographs of the appeal site and environs available to view throughout the appeal file.

2.0 PROPOSED DEVELOPMENT

- 2.1 This is an application for permission to construct a dwelling house including domestic garage, new entrance and associated site works. According to the application form the house is to be used as the applicant's permanent house.
- 2.2 The application was accompanied by the following:
- Site Characterisation Form
 - Supplementary Planning Application setting out the applicants connection to the local rural area
 - Letter of consent from applicants father and legal owner of the site to make the plannign application. Stated that upon receipt of planning permission the ownership of the site will be transferred to the applicant.
 - Letter from the applicant stating that they need to build a house on their fathers farm as they are farming the land with him; they are an only son and that they need to continue the tradition that has been in the family for the past 170 years.

3.0 TECHNICAL REPORTS

- 3.1 The **Area Engineer** recommends the deferral of the file for the following:
- A letter form the landowner to the north giving permission to set back the roadside fence 1.1m from the road edge for a distance of 12m
 - The most northerly roadside point of the site to be visibly marked on the site.

- 3.2 **Irish Water** has no objections to the proposed scheme.
- 3.3 The Local Authority **Executive Planner (Case Planner)** set out the following inter alia in their report:
- The proposed development is a repeat application following on from the refusals issued under 14/4986 and 13/6489 in recent years, for reasons relating to the settlement policy context, but also due to serious concerns about the density of development that has already taken place in the immediate area. Stated that the only difference in the current application appears to be that the applicant is now the son of the landowner, rather than the landowner himself.
 - Accepted practice within the Planning Authority that planning applications made by students are premature and do not constitute a genuine housing need due to the lack of certainty about the applicant's future employment location etc.
 - In this case, having regard to the applicant's very young age, considered that he may well undertake further education and therefore, may well be a student for a number of years yet. Noted that the applicant states that he intends to take over the running of the farm, but no timeline or commitment to such an action has been demonstrated. Further noted that his father will be running the farm for a number of years yet based on the information available within the previous applications.
 - Overall, there are c.16 existing dwellings within a 250m radius of the site, which is considered excessive for a rural, unserved area.
 - In this case, it is considered that the change of applicant was not in itself sufficient to overcome the previous refusal reason relating to housing need as the current applicant has not sufficiently demonstrated that he complies with the settlement policy objectives attached to the site.
- 3.4 The **Case Planner** stated that having regard to the settlement policy attached to the site, the failure of the applicant to demonstrate a genuine rural generated housing need, as well as the planning history attached to the site and the Planning Authority's serious concerns relating to density of development in the area, recommended that permission be refused in this case.
- 3.5 The **Liaison Officers** Report provides a brief summary of the Case Planners report.
- 3.6 The **Senior Executive Planner** notes the Case Planner's overall assessment and agrees and endorses their recommendation to refuse permission. Accordingly the

notification of decision to refuse planning permission issued by Cork County Council reflects the recommendation of the Case Planner.

4.0 OBSERVATIONS / OBJECTIONS

4.1 There are no observations / objections recorded on the appeal file

5.0 PLANNING AUTHORITY DECISION

5.1 Cork County Council issued notification of decision to **refuse** planning permission for the following two reasons:

1. *The proposed development is located in an unserviced rural area within an area designated as **Rural Area Under Strong Urban Influence**, where it is the policy of the Planning Authority as set out in the 2014 County Development Plan to protect such areas from additional residential development save for where the applicant can clearly demonstrate that their proposal constitutes a genuine rural housing need based on their social and/or economic links to a particular local rural area. Based on the details submitted with the application, the Planning Authority is not satisfied there is a case for relaxing the settlement policy restriction for this application, as the **applicant is currently a fulltime student and at this time does not have a genuine rural housing need**. The proposed development would, therefore, **contravene materially the policy objective RCI 4-2** of the current County Development Plan and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development is located in an unserviced rural area and, when taken in conjunction with existing and permitted development in the area, would give rise to an excessive density of development and:*
 - (a) *Contribute to **undesirable ribbon of development in a rural area** outside lands zoned for residential development;*
 - (b) *Lead to demands for the **uneconomic extension of public services and community facilities** in an area where they are not proposed;*
 - (c) ***Militate against the preservation of the rural character** of the area; and*
 - (d) *Would promote **unsustainable commuting traffic patterns** in and out of nearby villages and towns to access employment, shopping and schools, etc. and generally generate patterns and volumes of traffic for which narrow rural roads were not designed.*

The proposed development would therefore be in conflict with the provisions of the 2014 County Development Plan and the Sustainable Rural Housing Guidelines published by the Department of Environment Heritage and Local Government and would be contrary to the proper planning and development of the area.

6.0 PLANNING HISTORY

6.1 There is no evidence of any previous planning appeal on this site. There were two previous planning applications on this site, as referenced in the Case Planners report that may be summarised as follows:

Reg Ref 14/4986 – Cork County Council granted planning permission to Jerry Ryan for the construction of dwelling house including domestic garage, new entrance and associated site works on the appeal site for two reasons relating to (1) non-compliance with settlement policy and (2) density/ribbon development in area. Both reasons are similar to the two reasons set out in current notification of decision to refuse permission and the subject of this first party appeal.

Reg Ref 13/6489 – Cork County Council planning permission to Jerry Ryan for the construction of dwelling house including domestic garage, new entrance and associated site works on the appeal site for two reasons relating to (1) non-compliance with settlement policy and (2) density/ribbon development in area. Similar to Reg Ref 14/4986 above both these reasons are similar to the two reasons set out in current notification of decision to refuse permission and the subject of this first party appeal.

6.2 It is noted from the **Case Planners** report that **pre-planning discussions** were held by phone with Killian Collins (first party agent) in relation to this site on behalf of the current applicant's father, Jerry, in May 2015. The Case Planner states that *Mr Collins was advised of the settlement policy attached to the site, but that even where that issue can be addressed, there is still a refusal reason relating to the density of development in the area, which won't be easy to overcome.*

7.0 THE DEVELOPEMNT PLAN

7.1 The operative plan for the area is the **Cork County Development Plan 2014**. The site is located within an area zoned as Rural Area Under Strong Urban Influence, the policy for which is set out as follows:

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.*

7.2 The **Sustainable Rural Housing - Guidelines for Planning Authorities 2005** states inter alia that where the *'applicant comes within the development plan definition of need'*, people who have roots in or links to rural areas, and are part of and contribute to the rural community planning permission will be permitted subject to an occupancy condition, provided they meet the normal requirements in relation to matters such as road safety, proper disposal of waste water and satisfy the *"normal planning considerations relating to siting and design"*.

8.0 GROUNDS OF APPEAL

8.1 The first party appeal has been prepared and submitted by the applicants Jack Ryan against the decision to refuse planning permission. The main points of the appeal may be summarised as follows:

- 8.2 **Settlement Policy Restriction** - The applicant is a full time student and will be finished school in 2016. They will be 18 years old in December 2015 and due to financial, economic and practical reasons they chose to apply for planning permission now. The applicants wants to invest their money on a house for the future; they want to be able to build a top quality house while maintaining value for money and by the time permission is granted and the house built it could be summer 2018 and the applicant will no longer be a student but a full time worker.
- 8.3 **Excessive Density in the Area** – The proposed single dwelling is not going to exasperate the situation. There are seven houses to the west (across the road), one house to the north and one house to the south (same side as site). Submitted that it appears that other peoples gain has now become the applicant’s loss. The applicant does not have a choice in the site location as it is the only part of their father’s land that has road access without hindering agricultural activities. It is submitted that a single dwelling house will not generate patterns and significant volumes of additional traffic in the area.
- 8.4 **Farm** – The applicant is the only son and family member of the farm and will be taking over farm duties in the future as their father will have to go into retirement on medical advice. The applicant farms intensively with calf and beef going to the consumer and would need to live in close proximity of the farm in winter for animal welfare.
- 8.5 **Conclusion** – The applicant has limited options as their parents livelihoods and the applicants potential family’s livelihood relies on proximity to the farm which five generations of family have lived and worked.

9.0 **RESPONSE OF THE PLANNING AUTHORITY**

- 9.1 There is no response from the Planning Authority recorded on the appeal file

10.0 **OBSERVATION**

- 10.1 There are no observations recorded on the appeal file.

11.0 **ASSESSMENT**

- 11.1 Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key issues relating to the assessment of the appeal are:
- Principle / Policy Consideration
 - Ribbon Development
 - Traffic Safety
 - Other Issues

12.0 PRINCIPLE / POLICY CONSIDERATION

- 12.1 The Planning Authority in their first reason for refusal stated that the applicant is currently a fulltime student and at this time does not have a genuine rural housing need and therefore does not comply with policy objective RCI 4-2 Rural Area Under Strong Urban Influence of the current County Development Plan.
- 12.2 The Case Planner states it is has been a generally accepted practice within the Planning Authority that planning applications made by students are premature and do not constitute a genuine housing need due to the lack of certainty about the applicant's future employment location etc. The report further states that in this case, having regard to the applicant's very young age, that he may well undertake further education and therefore, may well be a student for a number of years yet and that no timeline or commitment to taking over the running of the farm has been demonstrated.
- 12.3 It is noted that planning permission has already been refused on this site twice in recent years, to the applicants father for reasons relating to the settlement policy context, but also due to serious concerns about the density of development that has already taken place in the immediate area.
- 12.4 As noted by the Plannign Authority the appeal site is in an area defined as Rural Area Under Strong Urban Influence in the current Development Plan. The Sustainable Rural Housing - Guidelines for Planning Authorities 2005 are based on the presumption that where the *'applicant comes within the development plan definition of need'*, people who have roots in or links to rural areas, and are part of and contribute to the rural community will be considered favourably subject to compliance with other normal planning considerations. Policy RCI 4-2 - Rural Area Under Strong Urban Influence requires that 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 as summarised:
- a) Farmers, their sons and daughters
 - b) Persons taking over the ownership and running of a farm on a fulltime basis
 - c) Other persons working fulltime in farming, forestry, inland waterway or marine related occupations, for a period of over seven years
 - d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area

e) Returning emigrants

- 12.5 It is stated in the appeal that the applicant is a full time student and will be finished school in 2016. They will be 18 years old in December 2015 and due to financial, economic and practical reasons they chose to apply for planning permission now. It is further stated that the applicant is the only son and will be taking over farm duties in the future as their father will have to go into retirement on medical advice. The applicant farms intensively and relies on proximity to the farm which five generations of family have lived and worked.
- 12.6 Notwithstanding the wide ranging criteria set out in the Sustainable Rural Housing Guidelines (2005) and RCI 4-2 of the County Donegal Development Plan most of which appears to have been conceived in line with Sustainable Rural Housing Guidelines in terms of eligibility for rural housing I am not satisfied that the applicant, a student, of itself establishes a specific rural generated housing need for a house at this location in accordance with the criteria set out in the national policy guidelines.
- 12.6 While the applicant is the landowner's son and it is his intention to take over the running of the farm it also remains that he is a student and as pointed out by the Case Planner there may be uncertainty about the applicants future education and employment location. In these circumstances and based on the information provided I can only conclude that bona fide need for housing cannot be established or justified in this case that satisfies the criteria for housing 'need' as outlined in the current County Development Plan (2006-2012) in line with the Rural Housing Guidelines. Attaching a condition requiring that the dwelling be first occupied by either the applicant, immediate family member or persons who belong to the same category of housing need as the applicant as defined in the County Development Plan is not a satisfactory method of establishing a specific rural generated housing need in this instance. Refusal is recommended.

13.0 RIBBON DEVELOPMENT

- 13.1 The Planning Authority in their second reason for refusal stated that the development is located in an unserviced rural area, would give rise to an excessive density of development and would inter alia contribute to undesirable ribbon of development in a rural area outside lands zoned for residential development and militate against the preservation of the rural character of the area.
- 13.2 It is the stated policy of the Council to discourage development which would contribute to or exacerbate ribbon development (defined by Cork County Council as five or more houses on any one side of a given 250 metres of road frontage). County Development Plan Objective - RCI 6-3: Ribbon Development states that there is a *presumption against development which would contribute to or exacerbate ribbon development*. The Case Planner states that there are c.16 existing dwellings

within a 250m radius of the site, which is considered excessive for a rural, unserviced area.

- 13.3 As mentioned previously this appeal site is located in a rural area that is removed from any serviced urban centre. As evidenced on day of site inspection and substantiated by the Case Planner in their report the area has experienced a notable level of one-off rural housing development in this rural area particularly along this section of Road. The net result is an unsustainable proliferation of suburban type development that is unrelated to the vernacular pattern of rural housing. To permit the proposed application for a further new build in conjunction with the other residential developments in the area would in my view contribute to and exacerbate an excessive spread of suburban type ribbon development in this rural area. Further, to permit this development would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. Refusal is recommended.

14.0 TRAFFIC SAFETY

- 14.1 Access to the site is provided by means of a new access located at the northern corner of the site onto the adjoining public road. The applicant proposes to construct a new entrance wall and piers and that the remaining roadside hedgerow / ditch is to be retained along the roadside boundary. The Area Engineer recommended that a letter from the landowner to the north giving permission to set back the roadside fence 1.1m from the road edge for a distance of 12m be requested. No further information was requested as the Case Planner was satisfied that the setback of the neighbouring roadside boundary to the north would not alter the rural character of the area to any great degree. I would point out that the lands to the north of the site appeal to be in the applicants fathers ownership.
- 14.2 As noted on day of my site inspection the necessary vision lines required to ensure safe egress from the appeal site onto the roadway cannot be achieved in a northerly and southerly direction without significant physical intervention. It is also my view that the proposed new access at this location taken together with the substantial number of existing access points along this section of road would give rise to traffic hazard and the obstruction of road users because the traffic turning movements generated by the proposed development both exiting and accessing this development would interfere with the free flow of traffic at this location. I consider that the proposed scheme without significant physical intervention would endanger public safety by reason of traffic hazard as the roadway serving the site is inadequate to safely accommodate the additional traffic movements associated with the proposed development.
- 14.3 Having regard to my site inspection I consider that any works required to adequately facilitate safe access / egress from the site along this roadway would be excessive in

this instance and would result in a high impact development at this rural location reinforcing the unsuitability of the development of a residential dwelling at this location in the first instance. Refusal is recommended.

15.0 OTHER ISSUES

- 15.1 **Drainage Services** - The development will be served by private well and a “packaged wastewater treatment system and polishing filter. Surface water disposal will be by means of a soak pit. The proposed arrangements are considered acceptable subject to compliance with the requirements planning authority and the EPA guidelines.
- 15.2 **Appropriate Assessment** – Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 15.3 **Development Contributions** – Cork County Council has adopted a Development Contribution scheme under **Section 48** of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in the “Reduced Contributions” Section of the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

16.0 RECOMMENDATION

- 16.1 Having considered the contents of the application, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

17.0 REASONS AND CONSIDERATIONS

1. Having regard to the location of the site within a Rural Area Under Strong Urban Influence as identified in the Cork County Development Plan 2014 the Board is not satisfied, on the basis of the submitted documentation, that the applicant comes within the scope of the housing need criteria for a house at this location as set out in Policy RCI 4-2 of the current County Development Plan and in the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural

development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is the policy of the planning authority as set out in the current development Plan to control urban sprawl and ribbon development. This policy is considered to be reasonable. The proposed development would be in conflict with this policy because, when taken in conjunction with existing and permitted development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted. The works required to adequately facilitate safe access / egress from the site along this roadway would be considered excessive in this instance and would result in a high impact development at this rural location and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mary Crowley
Senior Planning Inspector
7th March 2016