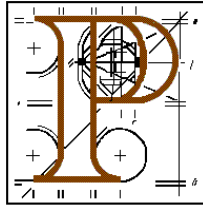


An Bord Pleanála



Inspector's Report

Appeal Reference No: PI.04.245763

Development: House

Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 15/5338

Applicant: Richard Hegarty

Planning Authority Decision: Grant subject to conditions

Planning Appeal

Appellant(s): Dominic & Carmel Tattan

Type of Appeal: Third Party v Permission

Observers: None

Date of Site Inspection: 01/02/2016

Inspector: A. Considine

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site is located in Garryvoe Lower, Co. Cork, to the east of Cork City. The site is located on the eastern side of Garryvoe Cross Roads and to the south of the road leading to Garryvoe Upper. This rural area has had extensive pressure for one off housing as evidenced on my site visit. The area is not serviced with public mains and as such, there is a significant concentration of private WWTPs serving the residential developments.
- 1.2 The subject site lies to the south of the public road, and to the rear of existing roadside houses. Access to the site is via a very narrow private route which runs between two existing houses. The route is in a very poor condition with gravel for a length of approximately 65m where it presents as a T junction. Access to the subject site requires a 90° turn to the right for a further distance of approximately 35m before the site boundary is reached. The condition of the private route in this area is very poor and very narrow to facilitate a car. The access road runs along the length of two boundaries of an existing house.
- 1.3 The subject site is generally regular in shape with a significant slope running down in a north west to south east direction. The site has a stated area of 0.47ha. The context of the subject site is presented in the appendix to this report which includes, maps and a number of photographs taken on the day of my site inspection.

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the construction of a dwelling house on the subject site. The house proposed comprises a single storey dwelling with a stated floor area of 190.4m². The house comprises two blocks with A gables and including a large kitchen / diner / lounge, utility, family bathroom, separate living room and three double bedrooms, including a master suite.

- 2.2 The house will rise to a stated height of 5.614m and will be finished with a sand and cement plaster render, blue/black slates and uPVC windows and doors.

3.0 PLANNING HISTORY

PA ref 15/5248: Permission was sought for the construction of a dwelling on the site by the current application. The application was deemed invalid.

In the vicinity:

PA ref 13/4890: Permission was granted to Nessa Fitzgerald, for the conversion of existing single storey dwelling to a dormer type dwelling by re-constructing the roof to provide habitable space within the attic, together with other alterations to the existing structure and all associated site works, all at Garryvoe Lower Ladysbridge Co.Cork. This site is located directly to the north west of the subject proposed site.

PA ref 15/6890: Permission granted, on the 17th February, 2016, to Patrick Hegarty, for the construction of a dwelling house on a site across the road to the north of the current proposed development site.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

- 4.1.1 The Planning Officers report considered the proposed development in terms of the policy requirements of both the Cork County Development Plan as well as the Midleton Electoral Area Local Area Plan, 2011. The Planning Officer considered that the while the applicant appeared to comply with the requirements of RCI 4-1(d), further information was required to be submitted. The report further notes that the subject site is located in a 'backland location'.
- 4.1.2 In terms of planning policy, the report notes that Garryvoe Upper is defined as an 'other location' within the settlement hierarchy. It is concluded that there is a limited area available for development

which will consolidate the existing built up footprint, and would not exacerbate ribboning. Following an assessment of the proposed development, the report concludes that in principle the proposed development would not impact negatively on the adjacent dwellings, but recommends that further information be sought with regard to a number of issues including as follows:

1. Clarification regarding ownership of the site.
2. Consideration of an alternative site
3. Potential for negative impact on residential amenity of existing adjoining dwelling.
4. Issues relating to the access road.

4.1.3 Following the receipt of a response to the further information request, the Planning Officer concluded that, having regard to the siting / layout of the proposed development and the cross sections submitted by way of FI, (he) was satisfied that the proposed development would not undermine residential amenity or rural character. Accordingly the proposed development is not incompatible with the objectives of the LAP as regards 'Garryvoe Upper'. Elsewhere the applicant has answered the RFI to the satisfaction of the PA', and a grant of permission is recommended.

4.1.4 The PAs report noted the submission of 2 objections to the proposed development from the residents of the houses to the north (roadside) of the proposed development site. The issues raised are summarised as follows:

- Backland development
- Impacts on residential amenity.
- Availability of alternative site.
- Roads / traffic / access concerns.
- Impact of siting and design of the house and potential impact on existing views.
- Excessive cutting of the site required to accommodate the house, which is considered inappropriate.
- Site suitability with regard to WWTP
- Potential to provide for additional future sites.

4.1.5 There is representation from an elected member, Cllr Michael Hegarty, on the PAs file.

4.1.6 In terms of technical reports, the following is relevant:

Area Engineer: advises no objection to the proposed development.

Irish Water: advises no objection to the proposed development.

4.2 Planning Authority Decision

The Planning Authority decided to grant planning permission for the proposed development, subject to 12 no. conditions including as follows:

Condition 2: occupation restriction

Condition 3: contribution

Condition 11: upgrading of access road.

5.0 GROUNDS OF APPEAL

Cunnane Stratton Reynolds have submitted a third party appeal against the decision of Cork County Council to grant planning permission for the proposed construction of a dwelling house on the subject site, on behalf of Dominic & Carmel Tattan. The grounds of appeal are summarised as follows:

- The proposal if permitted by reason of its location and proximity to appellants dwelling house would not be in accordance with the proper planning and sustainable development of the area as the dwelling house will negatively impinge on the residential amenities of the existing dwelling house.
- The appellants house, given its orientation, will overlook the proposed site and the level of encroachment is excessive in the rural environment. This will lead to potential overlooking of the private amenity area of the applicants property.

- The site if permitted will create an excessive density of individual rural dwelling houses in an area that does not benefit from public foul sewer, footpaths and other public amenities.
- The proposal if permitted, by reason of the proposed access arrangement will set an undesirable precedent for similar development in the area. There are inadequate sightlines.
- The proposal involves excessive cutting into the slope of the site and along with the proposed new access road to the south, will be visually obtrusive when viewed from the south.
- The red line boundary of the site is incorrect as it does not include the access road. The application should be invalidated.
- The proposed private access road is incapable of accommodating emergency services.

In addition to the above, the appellants submit that the application should be invalidated as it does not accord with the requirements of the regulations.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The Planning Authority has not responded to this third party appeal.

6.2 First party response

6.2.1 The First Party, through their agent, has submitted a response to the third party appeal against the decision of the PA to grant planning permission. The response is summarised as follows:

- It is submitted that the applicant meets the requirements of the relevant planning objectives for the area. A grant of permission does not materially contravene the Development Plan.
- The full scope of works for which an application for permission was sought are contained within the redline development boundary as submitted. It is not intended to carry out works to the existing private access road for which planning permission will be required. Therefore, a letter of consent was not required.

- In terms of the concerns regarding the accessibility of the site for emergency services, it is submitted that the appellants belief is incorrect. The private road intersects with the public road at two locations and 'Route B', will be the appropriate route for large-scale emergency vehicles. Widths are in compliance with requirements set out in table 5.1 of the Technical Guidance Document B.
- Details of access / egress have been assessed and deemed acceptable, by Cork County Council.
- Issues in terms of residential amenity have been addressed in response to the PAs FI request.

The submission concludes that the appeal has not demonstrated how the development, if permitted, would affect residential amenity or to justify the overturning of the County Councils decision to grant permission.

6.3 Observations on grounds of appeal

There are no observations noted on this appeal.

7.0 POLICY CONTEXT

County Development Plan, 2014

7.1 The subject site is located within the Greater Cork Ring Strategic Planning Area, in an area of Co. Cork which has been identified as being a Rural Area under Strong Urban Influence, and having a High Value Landscape.

7.2 In terms of the Rural Area under Strong Urban Influence designation afforded to the subject site, the following policy objectives are considered relevant:

- RCI 4-2: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1):
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 a number of identified categories.

- In terms of settlement strategy, the CDP at CS 3-2 deals with the 'Network of Settlements: Lower Order Settlements' and identifies that Other Location settlements are to be identified in the Local Area Plans. The CDP provides that it is the strategic aim to 'recognise other locations, as areas which may not form a significant part of the settlement network, but do perform important functions with regard to tourism, heritage, recreation and other uses'.

- The Plan identifies the area, in terms of Landscape Character Type, as being a Broad Bay Coast, Type 2. County Development Plan Objective GI 6-1: Landscape is considered relevant in this instance and it is the stated policy of the Council:
 - 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 landuse 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.

Middleton Electoral Area Local Area Plan, 2011

- 7.3 In terms of providing a clear picture, the Board will note that Garryvoe is identified as a linked settlement with Shanagarry and the Middleton EALAP considers the two a 'village' in the context of

the settlement hierarchy. The LAP provides for zonings across the identified area of the settlements. In addition, the LAP also identifies the area of Garryvoe Upper as 'Other Locations'. Section 32 of the LAP deals with Garryvoe Upper and states as follows:

32.1.1 Garryvoe Upper is situated to the north of Garryvoe Strand towards Ladysbridge, within an area comprising considerable scenic and natural amenities, including the neighbouring tourist centre of Shanagarry / Garryvoe. Garryvoe Upper consists of 2 linear roadside groupings of single dwellings extending to the North West and north east of a junction.

32.1.2. Garryvoe Upper is situated on a highly elevated location amongst steep coastal hills, set within a high quality landscape characterised by long range views.

In terms of planning proposals, the LAP provides as follows:

32.2.1. Given its' sensitive setting, lack of infrastructure and public services and it's natural heritage, it is important to protect Garryvoe Upper from inappropriate or large scale development during the life of this Plan. There is some capacity for one-off/infill development that will not undermine residential amenity or rural character.

Development should not however extend any further to the north west or north east as there is a risk of ribboning further eroding the rural character in this locality. It was agreed to consolidate tourism and recreation uses in the area. Any small-scale development proposals will be subject to the provision of satisfactory infrastructure.

- 7.4 The subject site is not located within the above described area, and lies to the south of Garryvoe Upper, in the townland of Garryvoe Lower.

8.0 ASSESSMENT

8.1 Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development and compliance with current County Development and Local Area Plans.
2. Site suitability
3. Visual & Residential Amenity Issues
4. Appropriate Assessment

Principle of development

8.2 The subject site is located within the townland of Garryvoe Lower and an area identified as a rural area under urban pressure for housing in the County Development Plan, 2014. The Plan, together with the Sustainable Rural Housing Guidelines, provide clear guidance that there is a presumption against the development of one off houses except where the proposal constitutes a genuine rural generated housing need based on social and / or economic links to the particular rural area. The applicant is required to accord with one of five categories of housing need in accordance with Policy Objective RCI 4-2. The applicant is the son of the landowner, and it has been advised that he is the beneficial owner of the proposed development site. There is no other alternative advised. The applicants family home is located across the road to the north of the currently proposed site.

8.3 There is no indication that the applicant or the landowner engage in any agricultural activity, but it is clear that the applicant has resided in the local area for many years and as such, appears to comply with the stated settlement location policy RCI 4-2(d) refers.

8.4 In terms of compliance with the Midleton Local Area Plan, I have advised above that the subject site is not located within the Garryvoe Upper area which is referred to in the said LAP. However, it is clear that the development as proposed will not contribute to

ribbon development, and is in principle, a 'backland' location. I am satisfied that it can be determined that the proposed development, in principle, can be considered as complying with the settlement location policy of the Cork County Development Plan, 2014.

Site Suitability

Water Services:

- 8.3 In terms of site suitability, the Board will note that it is intended to install a private septic tank treatment system to service the house. It is also noted that the house is to be serviced by a connection to the public water supply. Having considered the information provided on the planning authority file with regard to the proposed development, it is clear that consideration of the sites suitability with regard to the treatment and disposal of waste water has been extensively and comprehensively considered. In this regard, the applicant submitted a completed site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site. In relation to the information provided, the Board will note that the Planning Authority has raised no objection to the proposed development on site suitability grounds in relation to waste water treatment and disposal.
- 8.7 The site characterisation assessment, submitted as part of the planning application, notes that no bedrock was identified in the trial pit, which was dug to 2.4m bgl. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme but categorises the site as being a locally important aquifer (LI) with moderate vulnerability. No Groundwater Protection Repose is indicated. The soil type is described as 'topsoil on sandy clay' and the bedrock type is Sandstone with mudstone & siltstone. *T tests carried out on the site yielded a value of 19.83, while no *P tests were carried out at the site. The report concludes recommending a septic tank and percolation area to service the proposed development. Construction details are also provided. I consider that the proposed development in this regard is acceptable.

Roads & Access:

- 8.8 Access to the proposed development site is somewhat convoluted in my opinion. The site itself is located to the rear and adjacent to existing houses and the access to the site is via a very narrow private lane and where the surface is very poor and currently incapable of carrying traffic of any scale. The Board will note that it is the intention of the applicant to upgrade the access in order to provide an appropriate surface. I have no objection in principle to what is proposed, but I do have reservations regarding the alignment of the private route and its ability to accommodate construction traffic or larger vehicles. The private route is approximately 3.5m in width for a length of 55m, where it turns in a sharp right towards the site. This junction is a T junction with an unsurfaced laneway to the left also.
- 8.9 The third party has raised concerns regarding the capacity of this access to accommodate large vehicles. The applicant has responded advising that an alternative access will be used which from further east. There remain issues regarding the capacity of this alternative route for larger vehicles again, due to alignment and width. While I acknowledge that the County Council Engineer has raised no issues in terms of the proposed access to the site, I have concerns regarding the potential impact of the access on the existing residential amenities of existing properties adjacent to same. I will discuss the issue of residential amenity further below.
- 8.10 Having regard to the nature of the access onto the public road, the Board will note that the same access currently serves two other existing houses, with a third residential entrance located immediately to the west. There is a solid white line in the public road and having regard to the alignment of the road, sight distances are restricted particularly to the west of the entrance. The splay wall of the adjacent property restricts the sight distance in this regard. I am not satisfied that adequate sight distances exist to accommodate a further residential development at this location, and that a grant of permission in this instance, would result in a traffic hazard.

Visual & Residential Amenity Issues

- 8.11 In terms of the proposed design of the house, I have no real objection in principle. However, given the high value landscape in which the site lies, I am concerned regarding the impacts associated with the level of cutting required to accommodate the house. The Board will note that further information was sought by the Planning Authority in this regard and cross sections were provided. I would concur with the Planning Authority that the development, if permitted, having regard to the location and context proposed, would not represent a significant individual intrusion in the landscape and would be read in the context of the existing houses in the vicinity, particularly when viewed from the south.
- 8.12 The proposed house design seeks to develop a simple formed house which is considered to be appropriate to its rural setting. In addition, I consider that the proposed finishes to the house are acceptable. The proposed house will have a finished floor level of +30.5m with a ridge height of 36.1m. The layout of the site will result in the front of the house facing north and onto the house to the north of the site. Access to the site is from the south eastern corner of the site and it is proposed to construct a driveway along the eastern boundary and to the north (front) of the building. I consider that this proposed layout will contribute to a potential impact on the residential amenity of existing properties adjacent to the site and should be reconsidered.
- 8.13 In terms of the impact of the development on the amenities of adjacent properties, I do accept that the proposed development has been designed in order to minimise same by the reduced finished floor level and indeed the overall design of the house. In principle, I am satisfied that the residential amenities of the existing properties are reasonably protected, but would consider that the issue of the driveway and the orientation of the front door of the house should be reconsidered.
- 8.14 In addition to issues within the site, I am concerned that a grant of permission will result in the house immediately to the east of the subject site will essentially be surrounded by roads on three sides – both sides and rear. Notwithstanding the fact that landscaping can be provided along the north eastern side of the subject site to

address this issue, given the very narrow nature of the access road, it will prove more difficult on the rear boundary and northern eastern boundary of the existing house. These existing boundaries comprise low hedges and I consider that in the absence of a mutually agreeable solution in this regard that the development, if permitted, would negatively impact on the existing residential amenities of property in the area and would be contrary to the proper planning and sustainable development of the area.

Appropriate Assessment:

- 8.8 The subject site is located at a distance of approximately 1.6km from the nearest European site, being the Ballycotton Bay SPA, Site Code 004022, which is located to the south of the site. The subject development site itself can be considered a greenfield site within a rural area and it is to be noted that there is a watercourse within 360m of the site. Given that a Natura 2000 site is located within 15km of the site, the Board will be required to consider the potential effects of the proposed development on the identified European Site. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.
- 8.9 Having considered the nature of the proposed development, together with the planning history and given the scale of same together with the level of information provided in support of the application, it is considered appropriate to conclude that this project should not proceed to Stage 2 of the AA process and that an Appropriate Assessment is not necessary as there is little or no potential for significant effects to Natura 2000 sites. I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

9.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be refused for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

1. Having regard to the vertical and horizontal alignment of the public road, the Board is not satisfied that adequate sight distances are available at the proposed entrance to accommodate further residential development at this location. It is considered that a grant of permission would, if permitted result in a significant traffic hazard and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the nature and proposed layout of the development site, it is considered that a grant of planning permission, particularly in terms of the proposed access to the site over a narrow private lane surrounding an existing house on two sides with the proposed driveway within the site along a third side, would have a significant and negative impact on the amenities of existing residential properties in the area, by reason of overlooking due to low rise hedge boundaries of the existing house. It is considered that the proposed development, if permitted, would contribute to inappropriate development in this unserviced rural area, would set an undesirable precedent for similar type developments in this rural landscape and would be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
23/02/2016