
An Bord Pleanála



Inspector's Report

Development: House and septic tank at Ballybeg, Currow, Killarney, Co. Kerry

Planning Application

Planning Authority : Kerry County Council

Planning Authority Register Reference : 15/643

Type of Planning Application : Permission

Applicants : Marian Dunleavy

Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellants : Bernadette O' Sullivan Carroll & Robert Carroll

Type of Appeal : 3rd Party v. Grant

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 16/02/16

Appendices

1. Photographs
2. Extracts from the Kerry County Development Plan 2015-2021

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area of 0.403 hectares, constitutes part of a larger field in agricultural use in the townland of Ballybeg c. 2.5km to the south of Currow village and c.5.8km to the east of Farranfore. The field is irregular in shape and slopes down from north to south to the local road which bounds the site to the north. A narrow cul-de-sac road bounds the site to the west with a field access available at approx. mid point in the western boundary. The lane wraps around the field to the south with a disused field gate noted in the south-eastern corner. The lane provides access to two dwellings c. 120 metres to the south of the appeal site with a stone shed noted c. 30 metres to the south-east. The lane can facilitate one way vehicular traffic only with a number of pull in areas noted along its length. A watercourse runs along the western side of the lane which enters the Brown Flesk River on the other side of the local road to the north. The field boundaries are delineated by hedgerows.

The nearest dwelling to the north is that fronting onto the local road (c.170 metres distant). The general area is characterised by sporadic one off housing.

2. PROPOSED DEVELOPMENT

The application was lodged with the Planning Authority (PA) on the **21/07/15** with further plans and details received **22/10/15** following a request for further information (FI) dated 11/09/15.

The proposal is for a 214 sq.m. single storey dwelling served by a waste water treatment unit and polishing filter. Water supply is to be via a bore well.

As per the site characterisation form no water was recorded in the trial hole with an average T value of 47.94 calculated.

The applicant is from the area with the family home c. 200 metres to the north. She works in the area. Unsolicited information submitted in response to the objection received by the PA further sets out the applicant's ties to the area. The site is stated as being the only suitable site within the family's landholding. The applicant is willing to provide lay bys along the road to allow for passing vehicles. By way of FI the location of the existing passing areas are detailed. It is stated that the Area Engineer was of the opinion that the road was adequate and that additional lay bys are not required.

Note: An objection to the proposal received by the PA has been forwarded to the Board for its information. The issues raised are comparable to those cited in the grounds of appeal summarised in section 5 below.

3. TECHNICAL REPORTS

The **County Archaeologist** notes the recorded monument Ke049 034 (ringfort) but considered there is sufficient separation distance. No mitigation required.

The **Site Assessment Unit** in a report dated **10/09/15** states that the site is suitable for an effluent treatment system subject to conditions.

The **Area Engineer** in an email dated **12/11/15** states that there are no roads issues.

The **1st Planner's** report notes that as part of the pre planning process sight poles were erected on the site which showed that a dwelling at this location would not be visually obtrusive. Further information is required regarding the provision of lay-bys along the road and a landscaping plan. The **2nd report** following FI considers the issues arising have been satisfactorily addressed and recommends a grant of permission subject to conditions.

4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 17 conditions. Of note:

Condition 7: Occupancy clause for a minimum period of 7 years.

Condition 8: Dwelling to be used as permanent residence and not to be used as a holiday home.

5. GROUNDS OF APPEAL

The **3rd** Party appeal against the PA's notification of decision can be summarised as follows:

- The road serving the site is inadequate. It is very narrow with few places which allow for vehicles to pass each other and its drainage is poor. It serves two houses and four farmers. It cannot accommodate further development.
- Sightlines at the junction with the main road are restricted.

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- A further dwelling would detract from the rural amenities of the area and will be visually and historically incompatible with the pattern of development in the vicinity.
 - The applicant does not have a housing need.

6. APPLICANT'S RESPONSE TO GROUNDS OF APPEAL

The submission by Horan Drafting 2 Design on behalf of the applicant which is accompanied by supporting detail can be summarised as follows:

- The road is a public road, has a macadam finish with a number of points where vehicles can pass. Traffic levels on the road are low. It can accommodate the additional vehicular movements arising from the proposed dwelling.
- There are sightlines of in excess of 150 metres in either direction at the junction of the access road and local road which can be improved if required as the applicant's father owns the land to the east.
- No issues regarding road safety were identified in consultation with the Council Area Engineer.
- Relative to the number of families that resided along the road the use of the road has dramatically decreased and thus can accommodate a new dwelling.
- The existing natural screening to the south, east and west will help minimise the visual impact of the dwelling.
- The applicant is from the area, has a genuine housing need and does not own any other dwelling.
- The site is the only suitable one is the family landholding.

7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

No response received.

8. OBSERVATIONS

None

9. SECTION 131 NOTICE

Due to the proximity of the site to a recorded monument certain prescribed bodies were invited to make a submission on the appeal. No response was received.

10. RELEVANT PLANNING HISTORY

PL08.126459 (813/01) – outline permission refused for two houses (on separate sites one accessed via the cul-de-sac and the 2nd from the local road to the north). The reason for refusal makes reference to the fact that one of the houses is accessed via a substandard laneway. The proposal was considered as giving rise to an excessive density of development and would be contrary to development plan policy to direct residential development into services centre and towns.

11. DEVELOPMENT PLAN PROVISIONS

Kerry County Development Plan 2015 -2021

Objectives RS-1 – RS-6 relate to the general provisions in terms of rural housing policy.

The site is within the area designated Rural – General. This is considered the least sensitive landscape and from a visual impact point of view has the ability to absorb a moderate amount of development without significantly altering their character.

The site is within an area designated as being a Stronger Rural Area. Such areas are characterised by population levels that are generally stable within a well developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong rural/agricultural economic base. The key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas.

RS-10 – it is an objective to facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations.

RS-11 – it is an objective to consolidate and sustain the viability of the rural population and to promote a balance between development activity in the urban areas and villages and the wider rural area.

12. ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be assessed under the following headings:

1. Compliance with Settlement Location Policy
2. Access and Traffic
3. Visual Amenities
4. AA - Screening

12.1 Compliance with Settlement Location Policy

As per the current County Development Plan this site is within an area identified as being a stronger rural area characterised by population levels that are generally stable. The key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas. The development plan provisions would have been informed by the Rural Housing Guidelines.

As noted on day of inspection the vicinity is characterised by sporadic one off housing with the nearest being the two dwellings to the south accessed from the cul-de-sac with a further dwelling c. 120 metres to the north fronting onto the local road.

In such a designated area there is a presumption in favour of applicants seeking dwellings who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations. The applicant is the daughter of the landowner and is stated as currently residing in the family home with her husband. I consider that sufficient detail has been provided to support her claims and I consider that they can be seen to comply with the tenets of the development plan.

However as stated in both the County development Plan and the Rural Housing Guidelines, the acceptability of the proposal in terms of settlement policy is predicated on other planning and environmental considerations being satisfied.

12.2 Access and Traffic

Access is via a very narrow cul-de-sac road which slopes up in a southerly direction from its intersection with the local road. Two dwellings in addition to agricultural lands are served by the road. Two way vehicular movements are not possible with limited passing areas available with an open watercourse running along the western side increasing the hazard for vehicles should there be a requirement to pull in or

reverse to a passing bay. There are also material concerns for the conflicting movements that would arise from vehicles entering/exiting at the lane. Whilst sight lines were noted to be adequate the intersection cannot allow for passing vehicles. This, again, may result in vehicles having to undertake manoeuvres on the public road to facilitate oncoming vehicles. As noted on day of inspection the local road is relatively well trafficked along which the 80kph speed limit applies.

I consider that the cul-de-sac road and its junction with the local road to the north is seriously substandard and is incapable of accommodating further residential development. I consider that to allow for further vehicular movements would give rise to a traffic hazard. I therefore recommend refusal in this regard. Whilst I note reference to the fact that historically there were a greater number of dwellings along the lane this does not take into consideration the fact that modern development and living standards results in a materially greater number of vehicular movements than would have been the case in the past.

12.3 Visual Amenities

In terms of scenic quality the area is designated as being 'Rural General' which is considered the least sensitive landscape and from a visual impact point of view has the ability to absorb a moderate amount of development without significantly altering its character. Whilst the area has an innate rural quality it does not exhibit the characteristics more akin with the areas designated as both secondary and primary visual amenity and therefore I would concur with the designation.

The site is over 100 metres downslope of the two dwellings to the south, one being that of the appellants. I consider that the proposed single storey design is reasonable. Subject to the appropriate external finishes, the retention of the field boundaries save at the point of access and proposed site landscaping, I consider that it could be satisfactorily assimilated into the landscape.

12.4 AA – Screening

The site is c. 5km to the south-west of Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161). The qualifying interest is the Hen Harrier. The site is also 6km to the north-east of nearest point of the Castlemaine Harbour SAC (site code 000343) the qualifying interests for same includes a mix of marine and freshwater species and habitats including a number that would be susceptible to changes in water quality.

The proposal would not have a direct impact on the designated sites.

The nearest watercourse is that which runs parallel to the cul-de-sac road and which enters the Brown Flesk River on the opposite side of the local road c. 500 metres to

the north of the appeal site. The River itself flows in a westerly direction becoming part of the Castlemaine Harbour SAC c. 18 km from the site to the west of Castlemaine. In view of the actual separation between the site and the SAC the proposed development would not have any indirect impact on its water quality.

Taking into consideration the small scale nature of the development as proposed, and the relative separation to the European Sites, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site numbers 00343 and 004161 in view of the sites' conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

12. CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations:

REASONS AND CONSIDERATIONS

It is considered that the road onto which access is proposed is seriously substandard in terms of width and alignment and that additional vehicular movements that would be generated by the proposed development both along this road and at its junction with the local road to the north where the 80kph speed limit applies would give rise to conflicting vehicular movements and would, therefore, endanger public safety by reason of traffic hazard.

Pauline Fitzpatrick
Inspectorate

March, 2016