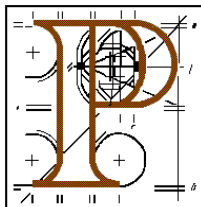


# An Bord Pleanála



## Inspector's Report

**Site Address:** Glinny, Riverstick, Co. Cork.

**Proposal:** House, garage and site works.

### Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 15/6500

Applicants: Siobhan Neville

Type of Application: Permission

Planning Authority Decision: Grant

### Planning Appeal

Appellant: Marie Rabbett

Type of Appeal: 3<sup>rd</sup> party -v- grant

Observers: None

Date of Site Inspection: 29<sup>th</sup> March 2016

**Inspector:** G. Ryan

## **1.0 SITE**

- 1.1 The subject site consists of a roughly rectangular plot of grassland in County Cork, around 1.5km northeast of the village of Riverstick, which itself is around half way between Cork City and Kinsale on the R600, Cork-Kinsale Road. The plot is effectively a 'backland' site behind the applicant's parents' home, accessed from the public road by a 'panhandle' section.
- 1.2 Aside from the applicant's parents' house to the immediate northeast, there are two houses to the southeast of the site, one belonging to the appellant, at the roadside, and a second to the west (again, a 'backland' site) which was permitted to the applicant's brother, Martin Neville, but has since been sold.
- 1.3 Between the subject site and the appellants site is an undeveloped plot on which a permission for the applicant's brother John Neville has expired. To the northwest of the applicant's parents' house is a plot where permission was granted for the applicant's brother, Aodan. To the east of the appellant's house, on the opposite side of the road, are a further two houses.
- 1.4 This roadway is effectively a cul-de-sac. Aside from the above houses, there are another half dozen or so houses along its length.
- 1.5 The landscape in the area consists of rolling hills largely under pasture, and river valleys. The land in the vicinity of the subject site falls to the southwest, affording views to the west, to the lands around Riverstick village, which is located in a valley.
- 1.6 The site has a stated area of 0.287ha.

## **2.0 PROPOSAL**

### **2.1 BROAD OVERVIEW**

- 2.1.1 It is proposed to construct a 2-storey, 4-bedroom house, arranged over split levels to accommodate the change in levels across the site. The design incorporates elements of traditional and contemporary design, and would have a mix of external materials from timber cladding, to stone facing, to rendered finish.
- 2.1.2 A 2-car garage is also proposed, along with an on-site effluent treatment system, a surface water soakaway, and a bored well.
- 2.1.3 The proposed works consist of a gross floor area of 297m<sup>2</sup>.

## **2.2 SUPPLEMENTARY APPLICATION INFORMATION**

- 2.2.1 The land is stated as being owned by the applicant's parents, Martin and Judy Neville.
- 2.2.2 The application form states that the applicant has been living at Glinny since 1991, and that she owns this property (although this is later contradicted by the answer 'no' to the question 'do you currently own or have you ever owned any residential properties'). A number of schools attended are listed, all in Cork City.
- 2.2.3 The application form states that the overall family landholding of 1.075ha was acquired in 1991. It is stated that neither the applicant nor her family are involved in agriculture. Neither is the applicant involved in forestry, inland waterway, marine rated occupations, rural based sustainable tourism, natural resource related occupations, employment which is essential to the delivery of social and community services and intrinsically linked to this particular rural area, or full time home based business in a rural area.
- 2.2.4 With regard to the question on the application form relating to 'exceptional circumstances', the applicant states that she needs to build a house for herself, and that getting a site from her father as a gift is the only way she can afford it.

## **2.3 OTHER ATTACHMENTS**

- 2.3.1 The application is accompanied by a site characterisation form and site assessment which recommends a wastewater treatment system and polishing filter.
- 2.3.2 A letter of consent from the applicant's parents – the owners of the site – is included.
- 2.3.3 A handwritten letter from the applicant states that she has lived at this site since 1991, when she was 13, and as always been active in the local community, where she now wishes to live. She has 7 acres of her own land, but due to planning refusals, and the planners' stated preference for a site on family landholding, the applicant is pursuing this application.

## **2.4 UNSOLICITED FURTHER INFORMATION**

### **2.4.1 Initial Unsol. FI**

- 2.4.2 A letter from the applicant's agent refers to the issue of site notices.

### **2.4.3 Second Unsol FI**

- 2.4.4 A subsequent letter from the applicant discusses the planning history at the land that was subject to the previous applications 1.5km to the northeast. The submission also refers to several issues between the

parties to the application. The submission goes on to state that the applicant's family moved to Australia for work with the intention of returning home. She is both a housewife and coach/consultant who works in both Ireland and Australia. When in Ireland she resides at her parents' home.

- 2.4.5 The submission refers to 'Planning Policy Context E' in relation to returning emigrants, and refutes the claim that she owns a house in Glengarrif.
- 2.4.6 The submission discusses a number of other issues of dispute between the parties. It asserts that the applicant's brother Martin (PA Ref. 04/3065) sold his house and moved to Australia with the planning authority's consent, and that the sterilisation agreement under 05/7687 did not include family members, and that the permission has expired in any case.

### **3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY**

#### **3.1 DEPARTMENTAL REPORTS AND EXTERNAL CONSULTEES**

##### **3.1.1 Irish Water**

3.1.2 No objections subject to conditions.

##### **3.1.3 Area Engineer**

3.1.4 No objections subject to conditions.

#### **3.2 REPRESENTATIONS**

3.2.1 Objections were submitted on behalf of the current appellant. The matters raised in these objections are largely reflected in the appeal grounds summarised in section 7.0 below.

3.2.2 A third party submission was also received from Dominic Neville, who states he is a relation of the applicant, and is in support of the application. The submission refers to the removal of trees from the boundary between the appellant's site and the applicant's family landholding, and to issues of traffic movements on this road.

3.2.3 An additional third party submission was submitted by Martin Neville Senior on behalf of the entire Neville family, stating that they take serious issue with the content of the objection.

#### **3.3 PLANNING OFFICERS REPORT**

3.3.1 The applicant's links to the area are strong, and were accepted by the planning authority under PA Ref. 09/5687. This prior grant should be recognised. A replacement county plan has come into force in the meantime, but without any major changes.

- 3.3.2 the applicant complies with criteria 'd' on the basis of a parish/social link, which is bolstered by criteria 'e' – returning emigrant.
- 3.3.3 The proposed development would result in a cluster of 5 houses. It would not be 'ribbon development' as defined in the county plan, which refers to 5 or more houses on any one side of a given 250m of road frontage.
- 3.3.4 Although the pattern or number of houses is very high, and another house would worsen an scattered pattern of development in the area, there has been no change in the number of houses in the area since the planning authority last granted permission.
- 3.3.5 The separation distance of 60m from the objector's house is more than adequate to preserve privacy, notwithstanding the removal/replanting of trees. No overlooking would occur.
- 3.3.6 Notes that the proposed house is identical to that approved under 09/5687.
- 3.3.7 'Screens out' for Appropriate Assessment under the Habitats Directive.
- 3.3.8 Recommends a grant of permission subject to conditions.

#### **4.0 PLANNING AUTHORITY DECISION**

The planning authority decided to grant permission subject to 17 conditions, many of which could be considered 'standard' conditions. Others of note can be summarised as follows.

3 7-year occupancy condition.

17 Requires post-consent submission of a Landscape Plan for agreement.

#### **5.0 HISTORY**

##### **5.1 APPLICATIONS BY THE CURRENT APPLICANT / APPLICANT'S SPOUSE**

###### **5.1.1 On a pair of sites 1.5km to the northeast**

**PA Ref. 02/2012** - outline permission was sought for a two-storey house at Glinny. The application was withdrawn following a recommendation of refusal by the area planner. The applicant's name was David Murphy.

**PL04.201680 (PA Ref. 02/4003)** – permission refused to David Murphy for a repeat outline application for a dormer dwelling on the same site as above. The supplementary application form stated that David Murphy was unemployed due to a serious accident and that he lived with a Martin Neville

of Glinny. The planning authority notified its intention to refuse the application on the grounds that the applicant did not meet the housing needs criteria; that the dwelling would form an excessively prominent and obtrusive feature on the landscape due to the site's elevated position on a hilltop, and that the proposed dormer dwelling would be highly visible in this exposed location and it would form an excessively prominent feature in the landscape. The grounds of appeal stated that it was proposed to purchase the site in joint names, and that the applicant's fiancée's family had lived in Glinny since 1992 and that the applicant had lived in Glinny since 1996. The applicant's agent's response submission stated that the Murphy home was one mile away from the application site. The Inspector's report referred to the overgrown nature of the site and the poor subsoil. The Board refused the application for two reasons. The first reason referred to the "elevated and exposed location on a hilltop" which would form an "excessively prominent and visually obtrusive feature in the landscape when viewed from public roads in the area". The second reason referred to the applicant not meeting the rural housing needs exceptions criteria.

**PA Ref. 06/4517** – permission refused to Siobhan Neville Murphy & David Murphy for a house at the same site as above. The applicants were requested to submit a supplementary planning application form. The completed form stated that both applicants lived in Glinny (Siobhan Neville Murphy since 1991 and David Murphy since 1996) with their respective occupations given as a business owner (Douglas, Cork) and a welder (working at a business operating from Glinny). Both applicants stated that they had never owned a house or received planning permission for a house within the County. A handwritten report from the Senior Executive Planner noted that part of the site sloped very steeply down to the north and that any house on this site would be even more obtrusive than the site previously refused (02/4003), and that the house to the west (03/6274) was in no way comparable to this application as that house is located on a plateau and set well back from the brow of the hill. A further handwritten note on the file (no job title given) stated that the applicants had a genuine housing need, although the Senior Executive Planner considered that any house on this site would be obtrusive. Permission was refused on the basis that "The proposed development, by reason of its elevated position close to a hilltop, would form an excessively prominent and obtrusive feature on the landscape and would thereby seriously injure the visual amenities of the area."

**PL04.224353 (PA Ref. 07/5047)** – permission granted by the planning authority but refused on appeal for a house on the site adjacent to the sites for the '02 and '06 applications above at Glinny, Riverstick, County Cork for the following reasons

- 1. The proposed development, by reason of its elevated and exposed location adjacent to the brow of a hill, would form an excessively prominent and visually obtrusive feature in the landscape when viewed from public roads in the area and would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.*

2. *It is an objective of the planning authority, as expressed in the current Cork County Development Plan, to channel housing into serviced centres and to restrict development in rural areas to those people who can demonstrate a genuine need to live in the countryside. This objective is considered reasonable. It is considered that the applicant does not come within the scope of the housing need criteria set out in the Development Plan. The proposed development would contravene materially the objective of the planning authority and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed.*

### **5.1.2 On the subject site**

**PA Ref 09/5687** – permission granted to the current applicant for a dwelling on this site. The permission expired in September 2014.

## **5.2 OTHER APPLICATIONS IN THE VICINITY**

**PA Ref. 04/3065** – permission granted to Martin Neville for a dwelling to the south of the appellant’s house. This house has since been constructed, and is the western (backland) of the ‘pair’ of houses to the south of the subject site.

**PA Ref. 05/7687** – permission granted to John Neville for a dwelling on the roadside plot between the subject site and the appellants site. This house has not been constructed.

**PA Ref. 07/6327** – permission refused to Julia Neville for extension to stables for use as a dwelling unit on a site 1 plot north of the family house.

**PA Ref. 08/6660** – permission granted to Aodan Neville on a site 2 plots north of the family house for a bungalow. This permission was extended under PA Ref. 13/5432, but has not been constructed to date.

## **6.0 POLICY**

### **6.1 RURAL HOUSING GUIDELINES**

The ‘Sustainable Rural Housing - Guidelines for planning authorities’ produced by the DoEHLG in 2005 designate this area as being an ‘Area under ‘Strong Urban Influence’<sup>1</sup> associated with Cork City. In such areas, the guidelines advise that

*The key development plan objectives in these areas should be to on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.*

<sup>1</sup> <http://www.irishspatialstrategy.ie/Map%2013505.pdf>

## 6.2 CORK COUNTY COUNCIL DEVELOPMENT PLAN 2014

### 6.2.1 Rural housing policy

The site is located in a 'Rural Area under Strong Urban Influence', a designation that applies to the area outside of the Cork City Greenbelt, and stretching in an arc from Bandon through Macroom, Mallow, and Fermoy to Youghal, punctured by other designations associated with towns themselves. I note that the village of Riverstick is surrounded by a 'development boundary' which includes greenfield lands.

In these areas, Objective RCI 4-2 applies, which is worth stating in full

*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.*

Objective RCI 6-3 is a 'Presumption against development which would contribute to or exacerbate ribbon development.' 'Ribbon Development' is defined in Section 4.6.7 of the plan as 'five or more houses on any one side of a given 250 metres of road frontage'.



## **7.0 GROUNDS OF APPEAL**

### **7.1 APPELLANT**

- 7.1.1 The 3<sup>rd</sup> party appeal was submitted by Payne Planning and Associates on behalf of the appellant, Marie Rabbett.
- 7.1.2 There are two houses to the southeast of the subject site, at a remove of around 50m. One is at the roadside, the other is set back. On the basis of the information submitted in the appeal, the appellant's house is the house at the roadside, the easternmost of the pair.

### **7.2 GROUNDS OF THE APPEAL**

- 7.2.1 The main grounds of this appeal can be summarised as follows.
- 7.2.2 Housing need, policy, visual impact**
- 7.2.3 There is already an excessive concentration of one-off houses in this rural area. The land slopes to the southwest, and there is no landscaping which would help to assimilate the proposed development.
- 7.2.4 The site is located in a 'Rural Area under Strong Urban Influence'.
- 7.2.5 The size and design of the proposed house is excessive.
- 7.2.6 The single carriageway cul-de-sac is unsuitable for further development.
- 7.2.7 The appellant refers to the planning history on this site, along with applications relating to the applicant's family. This is essentially the applicant's fifth application for permission for a dwelling in Glinny, with housing need being a reason for refusal.
- 7.2.8 On the Supplementary Planning Application Form, it is stated that the applicant is currently living in Glinny, and has been since 1991. The applicant's occupation is given as 'housewife', and it is stated that the applicant does not or never has owned any residential properties. The appellant refutes all these statements [details given – Page 6 of appeal].
- 7.2.9 The appellant asserts that the occupancy condition applied to PA Ref 04/3065 [Permission granted to Martin Neville - See Section 5.2 above] was never adhered to, and asserts that there has been unauthorised development at the applicant's family home, and on the adjoining plot to the north of the appellant's property.

### **7.2.10 Water contamination**

7.2.11 The appellant's water supply is already contaminated with coliform bacteria (results attached). Additional dwellings would undoubtedly increase the risk.

### **7.2.12 Overlooking**

7.2.13 There is a large amount of glazing proposed that would face directly into the appellant's kitchen and living room, affecting privacy.

### **7.2.14 Other issues**

7.2.15 The appeal also refers to issues around site notices, and to the existence of numerous vacant houses in the vicinity.

## **8.0 SUMMARY OF RESPONSES**

### **8.1 PLANNING AUTHORITY**

8.1.1 The planning authority have not responded to the matters raised in the appeal.

### **8.2 FIRST PARTY RESPONSE TO THIRD PARTY APPEAL**

8.2.1 A response submitted on behalf of the applicant counters the grounds of the appeal. Much of the content reiterates matters raised in the unsolicited further information summarised at Section 2.4.3 above. In addition, the applicant refers to new tree planting on site, and provides photos of these trees.

## **9.0 ASSESSMENT**

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Rural housing policy
- Visual impact
- Effluent treatment
- Screening for Appropriate Assessment

### **9.1 RURAL HOUSING POLICY**

#### **9.1.1 Background**

9.1.2 It is worth noting in the first instance the planning history relating to the applicant and/or her spouse. According to available information, permission was refused to the applicant's husband by both the

planning authority and the board in 2002, to the applicant and her husband by the planning authority in 2006, and again to the applicant by the board in 2007, all on lands around 1.5km to the north. All refusals referred to non-compliance with rural housing criteria.

- 9.1.3 The applicants switched their focus to the subject site, and in 2009 received permission for a development identical to the subject application on the site of the subject application. This permission was not appealed, but has since expired.
- 9.1.4 It is also worth noting the planning history of the wider landholding insofar as it relates to the applicant's relatives. It is my understanding based on the information on file that permission was granted for the original family home to the Neville family in 1991. Following this, permission was granted to Martin Neville Junior in 2004 for a detached house to the southwest of the appellant's house. This house was constructed, but the occupancy condition was not complied with, and the house was sold on. As per the applicant's assertion, this was with the consent of the planning authority.
- 9.1.5 Further permissions were granted to John Neville to the immediate south of the subject site in 2005 (since expired) and to Aodan Neville to the north of the family home in 2008 (permission extended in 2013). Permission was refused to Julia Neville for extension and conversion of stables to use as a dwelling in 2007.
- 9.1.6 I also note that the proposed layout retains access to the remaining backland plot to the northwest of the subject site
- 9.1.7 All the above years are as per the planning reference numbers. I acknowledge that decision dates may have been subsequent to these dates.
- 9.1.8 The applicant's circumstances**
- 9.1.9 The information presented in the application submitted to the planning authority was that the applicant had lived in Glinny since 1991 (age 13) continuously. The objector challenged this assertion, and in an email submitted by way of unsolicited further information, the applicant amended this narrative to the effect that she and her husband had moved to Australia, are living there now, but wish to return.
- 9.1.10 The applicant asserts that she wishes to live near her family and that she has strong links with the community. There is no evidence to suggest that either the applicant or her husband are engaged in rural based employment or any activity that would necessitate them living in the open countryside as opposed to any number of nearby towns

and villages. The applicant cites economic reasons for pursuing the application.

#### **9.1.11 Applicable policy**

9.1.12 The site is located in a 'Rural Area under Strong Urban Influence' under the county development plan. In such areas, Objective RCI 4-2 applies, which requires that applicants must demonstrate that they comply with one of 5 categories of housing need. The first three relate to those engaged in farming or other rural activities. The latter 2 are referred to by the planning officer, who considered the applicant to be compliant.

*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.*

#### **9.1.13 Assessment on rural housing policy**

9.1.14 It is at the very least a matter of concern that the applicant presented one set of circumstances in the application, and a second set of circumstances by way of unsolicited further information, when challenged by the objector.

9.1.15 While verifiable facts are few in this case, I am willing to accept the broadly agreed upon position that the applicant lived in this locality from 1991 for an indeterminate period, and that she now lives in Australia.

9.1.16 However, the question of whether she lived over 7 years in this locality (Criteria 'd' and 'e') and the extent to which there is a genuine intention to return to this location (Criteria 'e') is unclear. It is not for this assessment to make assumptions in this regard, but rather the onus is on the applicant to '*demonstrate that they comply*', as per the wording of Objective RCI 4-2. It should be noted that the applicant has been deemed non-compliant in terms of housing need criteria by both the planning authority and the board in the past.

9.1.17 Even if the applicant were to qualify for a positive presumption under RCI 4-2, I would raise some concern in light of the higher-level policies of the DoE 2005 guidelines which is strong on directing urban generated development into cities, towns, and villages.

### **9.1.18 Ribbon development**

9.1.19 On the question of ribbon development, I note that the planning officer found that the proposed development would be compliant with Objective RCI 6-3 (See Section 6.2.1 above) by virtue of there being no more than 5 houses along a 250m stretch of roadway. However, by my own calculations, over the course of 240m, there would, if permission be granted, 6 existing or permitted houses, as follows, from north to south.

1. Aodan Neville (permitted)
2. Family house (extant)
3. Siobhan Neville (current proposal)
4. John Neville (permitted, but permission lapsed)
5. Appellant (extant)
6. Martin Neville (extant, since sold onward)

9.1.20 It would most likely be appropriate to discount the John Neville house as permission has since expired, but that would still leave 5 houses extant or permitted that would result on foot of the subject proposal. As such, the proposed development would be inconstant with Objective 6-3

## **9.2 VISUAL IMPACT**

9.2.1 While the house is relatively standard for its role and era, I do note that at nearly 300m<sup>2</sup> it would be quite large against the backdrop of housing stock in the vicinity. Furthermore, the lack of boundary vegetation or screening topography in the area would leave this house visually exposed, with a disproportionate visual impact. It would be visible over a wide area to the west

9.2.2 On balance, I consider the visual impact of the proposed development to be a matter of concern, but not necessarily a reason for refusal.

## **9.3 EFFLUENT TREATMENT**

9.3.1 Notwithstanding the emerging density of housing in the immediate vicinity, all on private treatment systems, there is no evidence to suggest that there would be any issue around effluent disposal on site.

## **9.4 SCREENING FOR APPROPRIATE ASSESSMENT**

- 9.4.1 The nearest Natura 2000 site is the Cork Harbour SPA around 8km to the east. Given the minor nature of the proposed development, I do not consider that the proposed development would be likely to have any significant effects on the integrity of a European site having regard to its conservation objectives.

## **10.0 CONCLUSION AND RECOMMENDATION**

Based on the above, I recommend that permission be refused for the following reason. The applicant has not demonstrated compliance with rural housing need criteria, and the proposed development would result in ribbon development in this unserved rural area.

## **11.0 REASONS AND CONSIDERATIONS**

1. It is an objective of the planning authority, as expressed in the current Cork County Development Plan, to channel housing into serviced centres and to restrict development in rural areas to those people who can demonstrate a genuine need to live in the countryside. This objective is considered reasonable. It is considered that the applicant has not demonstrated that she comes within the scope of the housing need criteria in the Development Plan. The proposed development would also lead to the creation of 'ribbon development' under the terms of the current Cork County Development Plan by virtue of the creation of a 5<sup>th</sup> house within a 250m stretch of roadway along any given side. As such, the proposed development would therefore be contrary to Objectives RCI 4-2 and RCI 6-3, would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed, and would be contrary to the proper planning and sustainable development of the area.

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G. Ryan  
Planning Inspector  
5<sup>th</sup> May 2016