



An
Bord
Pleanála

Inspector's Report

Development	House and treatment system Gortagullane, Muckross, Killarney Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	16/16
Applicant(s)	Roger Harmon & Aoife Fleming
Type of Application	Permission
Planning Authority Decision	Grant
Appellant(s)	Michael Horgan
Observer(s)	None
Date of Site Inspection	10 th June 2016
Inspector	Mary Crowley

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site with a stated area of 0.21 ha is located in the townland of Gortagullane, Muckross and is accessed from the main road by a private laneway. The site forms part of the applicants parents existing garden area associated with the adjoining site. It is noted that planning permission was also sought on this adjoining property to retain the dwelling within revised site boundaries (Reg Ref 16/10 refers). The area is characterised by a very high volume of one off housing and 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 two storey / split level four bed dwelling house (215 sq.m) complete with a new wastewater treatment system consisting of a treatment plant and sand polishing filter.
- 2.2 The application was accompanied by the following:
- Letter from the owner of the site (Robert F Harman – applicants father) consenting to the applicants making a planning application
 - Letter from the applicant, Roger Harman, setting out their connection to the area. Stated that both applicants live with their respective parents and work full time in Killarney.
 - Site Characterisation Form, details of proposed wastewater treatment system and associated information
 - Supplementary Information form that states that the proposed dwelling is to be the applicants primary permanent place of residence.

3.0 TECHNICAL REPORTS

- 3.1 The **Area Engineer** states that the proposed development will not cause a traffic hazard.
- 3.2 The Site Characterisation Form Report submitted by the **Site Assessment Unit, Environment Section** concluded that the site is suitable for the incorporation of an on-site effluent treatment system subject to conditions as set out in the report.
- 3.2 **Irish Water** has no objections to the proposed scheme.
- 3.4 The **Case Planner** was satisfied that the applicant met the Councils Rural Settlement Policy. The Planner recommended that permission be granted subject to

conditions. The notification of decision to grant planning permission issued by Kerry County Council reflects the recommendation of the Planner.

4.0 OBSERVATIONS / OBJECTIONS TO KERRY COUNTY COUNCIL

- 4.1 There are two observations / objections recorded on the planning file from (1) Michael Horgan, Lakes and Rivers of Kerry, Salmon and Trout Conservation & Protection Association and (2) An Taisce.
- 4.2 The issues raised relate to urban sprawl, the area being zoned Secondary Special Amenity, the over development of the area, 15 effluent treatment systems in the immediate area, increased risk of pollution and that further traffic will increase the risk of accidents.

5.0 PLANNING AUTHORITY DECISION

- 5.1 Kerry County Council issued notification of decision to **grant** planning permission subject to 17 generally standard conditions.

6.0 PLANNING HISTORY

- 6.1 There is no evidence of any previous planning appeal on this site. AS mentioned in Section 1.1 above there is a recent planning application on the adjoining site (applicant's parent's house) that can be summarised as follows:

Reg Ref 16/10 – Kerry County Council granted planning permission to retain the existing dwelling house within revised site boundaries, and construct a new waste water treatment system consisting of a treatment plant and sand polishing filter subject to 5 conditions.

- 6.2 I would also draw the Boards attention to a recently decided appeal located further east from the appeals site that may be summarised as follows:

PL 08.246033 (Reg Ref 15/921) – Kerry County Council granted permission for the construction of a dwelling house, domestic garage, septic tank and percolation area and all site development works at Coolies, Muckross, Killarney, County Kerry. This decision was appealed by a third party. The Board refused permission for the following two reasons:

- (1) *Having regard to the location of the site within an Area Under Strong Urban Influence as identified in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government (2005), it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines*

or in the Kerry County Development Plan 2015–2021 for a house at this sensitive rural location. 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, contravene the provisions of the Guidelines and the objectives of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

(2) *Taken in conjunction with existing dwellings in the vicinity, it is considered that the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities, would exacerbate an emerging pattern of suburbanisation that is eroding the rural character in the vicinity, and would conflict with Section 3.1 of the Kerry County Development Plan 2015-2021, which states that “urban sprawl on the edge and environs of the Hub towns...should be discouraged.” The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

7.0 THE DEVELOPMENT PLAN

7.1 The operative plan for the area is the **Kerry County Development Plan 2015 – 2021**. The proposed development is within an area of Special Amenity and close proximity to Killarney National Park Special Area of Conservation. The site is also located in an area zoned Secondary Special Amenity. Further the area is designated as “Stronger Rural Area” in the County Development Plan

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 third party appeal has been prepared and submitted by Michael Horgan, Lakes and Rivers of Kerry, Salmon and Trout Conservation & Protection Association against the decision to grant planning permission. The main points of the appeal may be summarised as follows:

- 8.2 The area is totally overdeveloped with one off houses and treatment plants. The house is situated in the centre of at least 20 houses and septic tanks and is like a village in the country side where you would expect a central treatment plant for this many houses. Concern also raised regarding the cars generated by all these houses and associated traffic safety. Noted that the amenity area is zoned Secondary Special Amenity. Concern that the Regional Fisheries Board were not consulted.
- 8.3 Concern regarding the policing of the 17 conditions attached. Reference is made to Condition No 14 (landscaping). The appellant encloses a photo of a dwelling constructed 16 years ago which had a similar condition but has no evidence of landscaping.

9.0 FIRST PARTY RESPONSE TO THE GROUNDS APPEAL

- 9.1 The first party response to the appeal has been prepared and submitted by Reeks Consulting Engineers on behalf of the applicant and may be summarised as follows:
- 9.2 The proposed site is accessed off a private laneway which links to the public road. The site is an infill site located in an established cluster of houses. The objectives of the County Development Plan for Rural Housing together with the objectives for a Rural Area under Strong Urban Influence and Rural Secondary Special Amenity can be met.
- 9.3 The site has been in the applicant's father's landholding for over 40 years. The applicants have attached submissions demonstrating their intrinsic links and include both applicants' parents and the national school where both applicants attended.
- 9.4 As both applicants use this roadway on the daily basis, there will be no change to the traffic flow generated by the proposed development. Kerry County Council Roads Department state that it is not envisaged that the proposed development would give rise to any issues regarding traffic safety.
- 9.5 The existing septic tank serving the applicant's parents' house on the adjoining site is to be relocated to the rear of the existing house Reg Ref 16/10 refers. Improvement works to the treatment systems of both this house and the applicants parents' house can have a positive impact and beneficial impact on the environment. The threat to groundwater will be reduced by the installation of these new systems.
- 9.6 The dwelling has been architecturally designed so as to use the existing contours of the site and the requirements of Policy RS-2. Stated that the applicants have shown that they have dedicated time and effort in ensuring that this dwelling design can fit into this cluster of development with ease.

9.7 The catchment area for Lough Guitane is the hills and mountains which surround the lake. Various streams such as the Cappagh keep the lake topped up. The proposed site is actually downhill of Lough Guitane and the natural ground water flow is away from the lake.

9.8 In terms of landscaping the site is characterised by mature hedging and trees right around the boundaries to allow the proposed dwelling integrate into the site. It is intended to maintain and reinforce these boundary screenings and also to add screening along the front.

9.9 The applicants have genuine need for this dwelling and Kerry County Council are satisfied that it meets the strict criteria set out in the development plan for rural development.

10.0 RESPONSE OF THE PLANNING AUTHORITY

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

11.0 OBSERVATION

11.1 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:

- (1) Principle / Policy Consideration
- (2) Traffic Impact
- (3) Drainage Services
- (4) Other Issues (Appropriate Assessment and Development Contributions)

12.0 PRINCIPLE / POLICY CONSIDERATION

12.1 This is an application for single one off house and treatment system in a rural area of Co Kerry. Map 3.1 of the Kerry County Development Plan 2015 - 2021 indicates that the site in question is located within an area designated as '*Stronger Rural Area*'. While I note the designation I would share the views of the Board Planning Inspector who dealt with PL08.246033 (Reg Ref 15/921). This is a recently decided appeal located further east from this appeal site and where the Board refused permission for

the construction of a dwelling house, domestic garage, septic tank and percolation area. In this case the Inspector stated that they *would have serious difficulty in reconciling the designation of the subject location as a 'Stronger Rural Area' when both the immediate site context and the prevailing characteristics of the wider area are, more indicative of an 'Area under Strong Urban Influence'*. While I strongly agree with this observation in so far as it relates to this appeal site it remains that the site is designated in the current Development Plan as being within a Stronger Rural Area where it is an objective of the Council to *facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised* (Objective Rs-10 refers) and therefore must be assessed accordingly.

12.2 To this end this site is also located in an area which has been designated as being of 'Secondary Special Amenity' Map 12.1(n) of the County Development Plan refers. Section 3.3.2.2: Secondary Special Amenity Development Plan states that these areas constitute sensitive landscapes which can accommodate a limited level of development and that the level of development will depend on the degree to which it can be integrated into the landscape. Residential development in these areas shall be regulated in accordance with the provisions of Section 3.3.1 as follows :-

- Individual residential home units shall be designed sympathetically to the landscape and the existing structures shall be sited so as not to have an adverse impact on the character of the landscape or natural environment
- Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. The onus is therefore on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development
- Any proposal will be subject to the Development Management requirements set out in this Plan in relation to design, site size, drainage

12.3 Further Table 3.7: Amenity Zoning Settlement Policy: Secondary Special Amenity sets out the following:

- Sons and Daughters of the traditional landowner, or a favored niece or nephew, the land having been in the ownership of the family for in excess of 10 years while being the location of the principal family residence; or
- The applicant shall demonstrate a genuine rural employment need; or
- The applicants family shall have lived in the immediate locality prior to Jan 2003 with the applicant having been reared in the locality.

- 12.4 As set out the appeal file the applicant's father is the owner of the appeal site landholding for over 40 years, the applicants parents live next door to the site, the applicants' both work in the area and the proposed dwelling is to be their permanent place of residence. On the basis of the available information, I am satisfied that the applicant has demonstrated and intrinsic links to the area and satisfies the relevant eligibility criteria set out in Table 3.7: '*Amenity Zoning Settlement Policy*' of the Development Plan as regards the development of a rural dwelling house in an area of '*Secondary Special Amenity*'.
- 12.5` Further the proposed dwelling design is architecturally sympathetic to the site and environs and demonstrates a clear understanding of this sensitive location. Further I agree with the Local Authority Planner that having regard to the sloping nature of site and wider area and the volume of mature trees together the sensitive design response to the dwelling will not be visible from the public road and will not therefore impact significantly on the visual amenities of the area. I am satisfied that that proposed development meets the requirements set out in Section 3.3.2.2 of the Plan.

13.0 TRAFFIC IMPACT

- 13.1 The proposed development site will be accessed via a new entrance arrangement onto an adjacent narrow roadway. According to the local authority planners report this is a private roadway. The Area Engineer has assessed the application and considers that the proposed development using this existing private roadway to access the local public road *with adequate sight lines* will not give rise to a traffic hazard. I fundamentally disagree with this conclusion. As observed on day of site inspection the sightlines are severely restricted in either direction at the junction with the public road.
- 13.2 As stated above the site is located on a private roadway which is seriously substandard in terms of width and alignment. However the traffic from the proposed development will enter the public roadway from this public roadway using a pre-existing junction which has inadequate sight distance in both directions. In this regard I refer to the site photos taken on day of site inspection. I am concerned that to permit further development on this private roadway would endanger public safety by reason of traffic hazard and obstruction of road users because of the additional traffic turning movements the development would generate at this substandard junction. Further the works required to adequately facilitate safe access / egress from this junction are considered excessive and would result in a high impact development at this sensitive rural location. Refusal is recommended.

14.0 DRAINAGE SERVICES

- 14.1 The development will be served by a public water mains and a packaged wastewater treatment system and polishing filter. I have noted the contents of the Site

Characterisation For and details of proposed wastewater treatment system submitted the application. It is also noted that the Site Characterisation Form Report submitted by the Site Assessment Unit, Environment Section of Kerry County Council concluded that the site is suitable for the incorporation of an on-site effluent treatment system subject to conditions as set out in the report. The proposed arrangements are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines. On the basis of the information available on file, it would appear that the subject site is suitable for the installation of the packaged wastewater treatment system and polishing filter as proposed subject to conditions.

- 14.2 However I would add that I share the observations raised by the appellant with regard to the uncoordinated and unsustainable proliferation of septic tanks in this rural unserved area. I consider that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in the area. The proposed development, would, therefore, be prejudicial to public health. Refusal is recommended.

15.0 OTHER ISSUES

- 15.1 **Appropriate Assessment** – From a review of the National Parks and Wildlife Service Map Viewer, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation it is situated proximate to the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) to the south and west and the Killarney National Park Special Protection Area (Site Code: 004035) to the south. Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, and the separation distances involved between the subject site and surrounding Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, 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.
- 15.2 **Development Contributions** – Kerry 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 "Exemptions from the Payment of Development 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) The site is located on an existing private access roadway which is seriously substandard in terms of width and alignment. The traffic from the proposed development will enter the public roadway from this substandard roadway using a pre-existing junction which has inadequate sight distance in both directions. It is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users because of the additional traffic turning movements the development would generate at a junction where sightlines are restricted. The works required to adequately facilitate safe access / egress from this junction 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.

(1) It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in the area. The proposed development, would, therefore, be prejudicial to public health

Mary Crowley
Senior Planning Inspector
4th August 2016