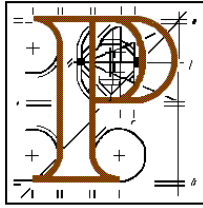

An Bord Pleanála



Inspector's Report

Development: House and wastewater treatment system, Oldcourt West, Midleton, Co. Cork

Planning Application

Planning Authority : Cork County Council

Planning Authority Register Reference : 16/4263

Type of Planning Application : Permission

Applicants : Norma Barry

Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellants : Peter & Mona Holden

Type of Appeal : 3rd Party v. Grant

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 04/07/16

Appendices

1. Photographs
2. Extracts from the Cork County Development Plan, 2015

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area 0.42 hectares, constitutes part of a larger field currently in agricultural use in Oldcourt West c. 800 metres to the east of the village of Lisgoold and c.7 km to the north of Midleton. The site is accessed from a track off a local county road. The said track originally provided access between the said local road and Lisgoold. Whilst the track has been cleared with a rough hardcore surface laid between the site and the junction with the local road to the east, the track to the west is overgrown and is not passable by vehicles. There is a gate at its junction with the local road. Sight distances are restricted at the junction due to the vertical and horizontal alignment of the local road.

The field of which the site forms part is rectangular in shape and slopes down from south to north. The extent of the site has been demarcated by posts. The field boundary to the track is delineated by an earthen bank and trees. Ground conditions were noted to be dry underfoot. An ESB line traverses the field to the north of the site.

There are two dwellings to the east of the site served by a shared access arrangement from the local road. There is a third dwelling to the south-west (other side of track) also accessed from the local road and which is the ownership of the applicant's sister. The general area is characterised by sporadic one off housing.

2. PROPOSED DEVELOPMENT

The proposal is for a dormer dwelling with a stated floor area of 221 sq.m. served by a proprietary wastewater treatment system with raised soil polishing filter. Water supply is to be from a bore well.

As per the site characterisation assessment the depth from ground surface to bedrock was recorded at 0.9 metres. As a consequence percolation T tests could not be carried out. A P value of 5.44 was recorded.

Modifications are required to the access onto the local road entailing the setback of the existing southern boundary to facilitate sightlines. Consent from the landowner (applicant's sister) has been secured.

The applicant is from the area and the site is in the family landholding, a map of which accompanies the application. The family home is c.460 metres to the west with vehicular access from the lane accessed from the Lisgoold side with the applicant's brother's dwelling to the north of same, also accessed from the west.

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 **Area Engineer** in reports dated **31/03/16** & **04/04/16** details conditions should permission be granted.

The **Planner's** report dated **04/04/16** considers that the applicant complies with the settlement location policy for the area as per RCI 4-2. The laneway from which access is proposed is a long standing feature which is delineated on the OS map as a private road. A condition can ensure that the turning area is within the site boundary and serves the applicant's site only. The density of development in the immediate area is relatively low and the existing development is somewhat clustered which has lessened the impact on the local road. A 3rd dwelling accessed by a separate roadway would not result in ribbon development. Any further applications on the holding will be closely monitored as this could be considered the limit at this point. The consideration of the improvement of the laneway is on the basis of it serving the proposed development only and not so as to facilitate further development. There are no concerns regarding sightlines at the access onto the local road. Surface water disposal has been adequately addressed. A grant of permission subject to conditions is recommended.

4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 14 conditions. Of note:

Condition 2: Occupancy clause for a minimum period of 7 years.

Condition 10: Entrance wall and neighbouring roadside boundary wall shall be set back to provide a clear sight distance of 40 metres to the south as measured from the centre point of the entrance, 3 metres back from road edge, with the replacement roadside boundary to be consistent with existing.

5. GROUNDS OF APPEAL

The 3rd party appeal against the PA's decision to grant permission, which is accompanied by a copy of their original submission to the PA, can be summarised as follows:-

- There are other more suitable options within the family farm for the proposed dwelling which would not require significant construction and upgrading works to the laneway and drainage. Such options would be closer to the settlement of Lisgoold in line with current county, regional and national planning guidelines.
- The raising of the existing track poses a safety risk to children playing in their garden as the ditch will be too low to act as a barrier in the event of a vehicle losing control and diverting into their garden.
- The access road is designed in such a manner as to facilitate future development. A hammer head is detailed which is not required to access the proposed development. It would set an undesirable precedent and the potential for ribbon development contrary to development plan objective RCI 6-3.
- The proposal would contribute to piecemeal and disorderly pattern of development and constitutes backland development. It would result in an excessive density of housing in an unserviced rural location.
- The dwelling will be visually obtrusive given its prominent position. The design is unsuitable taken in the context of existing development.
- The site could have been accessed from the south or the west lessening the impact on their property in terms of light, noise and loss of natural landscaping and screening.
- Should permission be granted the applicant should surface the access track.
- Condition 10 attached to the PA's decision refers only to the setback of the neighbouring roadside boundary walls to the south which is considered insufficient in terms of traffic safety. The sightlines are not achievable to the north due to the natural undulation of the roadway and a cottage with boundary walls and established hedgerow. No consent from the owners of the cottage has been submitted.
- Sightlines of 40 metres to the south are considered insufficient within a 80 kph speed limit.
- There is no indication of where the new soakaways are to be located. It appears from plans submitted that the soakaways will end up being located in the area of the proposed polishing filter or adjacent to their well. This requires clarification. The drainage channel along the southern edge of the access track would have to be filled in to provide safe vehicular access. Works to the said drain could have a negative impact on the appellants'

property in terms of flooding or contamination of water in their well which is c. 5 metres from the applicant's site

- The proposed 4 inch pipe is considered insufficient to cope with the water present on site.
- Soakaways are proposed near their well and septic tank. During periods of high rainfall their septic tank can fill with rainwater run-off due to high volumes of rainfall and a high water table on site. Poor drainage in the area has exacerbated the problem. The Council did not have regard to same.
- No details are given as to the protection of the proposed soil polishing from surface water runoff.
- The proposal will give rise to a proliferation of septic tanks and wastewater treatment systems in the area. The site suitability assessment fails to take into account the location of existing wells, septic tanks, and waste water treatment systems in the vicinity. There is a significant risk posed to their bore well. The time period for inspection of the trial hole was not in accordance with the 48 hour requirement. The site suitability assessment is deficient
- There is a conflict in terms of proposed water supply, namely whether it is from mains or from a well.
- Reference to plans received 12/02/16 in condition 4 appears to be an administrative error.

6. APPLICANT'S RESPONSE TO GROUNDS OF APPEAL

The submission by Linehan Construction on behalf of the applicant, which is accompanied by supporting detail, can be summarised as follows:

- Although the family landholding is 107 acres in size there are only two points of access, the first being that which is proposed to serve the site in this instance and the 2nd being the main access to the farmland and farm buildings to the west. The only site option on the holding with access from the west has been allocated to the applicant's brother who will run the farm. All other site options present logistical issues in terms of access and proximity to farm buildings. The applicant is one of five children, two of which have secured permission for houses on the holding. A ringfort in the centre of the holding restricts options in the centre of the holding.
- The private lane is a long standing feature of the area with the access upgraded to facilitate the proposed development. Consent from the landowners to the north of the access was not sought by the PA.
- The new entrance is designed with a splay of 1600mm to the northern side. It shall be recessed 450mm from the edge of the road with a width of 3500mm at the inside piers and the outside piers are set back 2400mm from the edge

of the road, allowing safe ingress to/egress from the site without interference on the safety and free flow of traffic along the road.

- There is no evidence of any incident on the road. 80 kph is not achievable when travelling south to north due to the uphill gradient, road surface and profile of the road. The speed is also reduced when travelling from north to south due to the bend on the road. Traffic coming from the north will be travelling on the opposite lane to the proposed entrance. It is therefore considered that the entrance shall not give rise to a traffic hazard.
- The proposed drainage arrangement by way of soakaways along the proposed entrance and along the access laneway will eliminate the lodgement of water and reduce the risk of flooding in the neighbouring garden that presently occurs. A separation distance of 20 metres is marked between the proposed soakaways and any existing and proposed bored wells.
- The proposal would not be visually obtrusive. The design is considered appropriate with the existing screening to be supplemented with further landscaping.
- The laneway is to serve the proposed dwelling only. No further development shall be sought in this area.
- The density of development in the area is relatively low and in a clustered form. The undulating landscaping and the levels provide a backdrop to the proposed development. The access to the proposed dwelling by means of an independent roadway would not constitute a ribbon development.

7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

No response received.

8. OBSERVATIONS

None

9. RELEVANT PLANNING HISTORY

Details of previous permissions granted on the landholding to the applicant's brother and sister are provided in the planner's report on file.

10. DEVELOPMENT PLAN PROVISIONS

Cork County Development Plan 2015

RCI 4-2 - The site is within an area designated as being under Strong Urban Influence. In such areas the applicant must demonstrate 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 compliance with one of a number of categories of housing need including:

Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm

Section 10.3.11 states that it is of critical importance to road safety that any new vehicular access is designed with adequate provision for visibility, so that drivers emerging from the access will have adequate visibility of oncoming vehicles, cyclists and pedestrians.

TM3-3(d) – It is plan objective to ensure that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users.

11. 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. Site servicing
5. AA - Screening

11.1 Compliance with Settlement Location Policy

As per the current County Development Plan the site is within an area identified as being under strong urban influence. Due to its proximity to the town of Midleton and Cork City the area's attractiveness for urban generated housing demand is evident. The key challenge in these areas is to sustain the vibrancy of rural communities by facilitating rural generated need whilst protecting their innate rural amenities. These 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 three dwellings immediately to the east and south-east of the appeal site.

In such a designated area there is a presumption in favour of applicants seeking dwellings who have a genuine rural generated housing need based on their social and/or economic links to the area, 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. Her current employment is at St. Finbarr's Hospital in Cork City. The family holding is as detailed on the map accompanying the application with the applicant's sister and brother having secured permission for dwellings with a site in proximity to the farm buildings in the western section of the holding being reserved for another brother. It is asserted that the subject site is the only viable option although I note that the documentation submitted with the application and the details submitted with the appeal response are silent on other alternatives which have frontage both onto the local road to the south of the applicant's sister's dwelling and from the lane in the western portion of the holding.

Whilst the applicant is apparently commuting to her place of employment in Cork City the settlement location policy presumption in favour of children of farmers in such a location would mean that she 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.

11.2 Access and Traffic

The site is set back c.90 metres from the local road from which access is proposed via what is currently a gated agricultural track/lane. This track may originally have provided access to Lisgoold. I note it has been recently roughly surfaced as far as the site and it is unclear as to whether it is to be further surfaced to facilitate the development. As noted on day of inspection sight lines at the junction of the track and the local road are restricted both to the north and south. Whilst consent has been secured from the applicant's sister who owns the dwelling to the south of the track to carry out the necessary works the sight lines that can be attained are estimated to be approx 60 metres. As per the details submitted in the appeal response sightlines of 75 metres can be attained in a northerly direction. Both fall materially short of the 120 metres as recommended for speed limits of 70 kph and 160 metres for 80kph speed limits as set out in the NRA Road Geometry Handbook. Taking into consideration the current County Development Plan objective TM 3-3(d)

which seeks to ensure that all new vehicular accesses are designed to appropriate standards of visibility to the ensure the safety of other road users the proposal cannot be considered to comply with same. The fact that the access may have been used for agricultural purposes is noted however I submit that the nature and extent of vehicular movements that would be generated by a dwelling would be materially different.

I consider that to allow the proposed arrangement would give rise to a traffic hazard. I therefore recommend refusal in this regard.

11.3 Visual Amenities

Whilst the area has an innate rural quality it does not exhibit the characteristics more akin with the areas designated as being of high value landscape. From a visual impact point of view I consider that the landscape in the vicinity has the ability to absorb a moderate amount of development without significantly altering its character.

The proposed dwelling will constitute the third in a row when viewed from the local road to the north with the fourth (applicant's sister's dwelling) evident in the background. Notwithstanding, the resultant pattern of development does not come within the definition of ribbon development as set out in Section 4.6.7 of the current development plan (5 or more houses on any one side of a given 250 metres of road frontage). The house design, whilst somewhat generic in execution, is not at odds with that existing in the vicinity. Therefore, I do not consider that the proposal would give rise to an adverse impact on the visual amenities of the area as to warrant a refusal on such grounds.

11.4 Site Servicing

As per the Site Characterisation Form a T test could not be carried with a depth of only 0.4 metres recorded between ground surface and bedrock. A P value of 5.44 was recorded. I note that the assessment does not appear to have regard to the existing pattern of development in the immediate vicinity including the fact that the adjoining site is served by a bore well, albeit upslope of the treatment plant to be installed.

I would have reservations as to the concentration of systems in an area which has very quick draining soils and absence of a public/group water supply. Concurrently I submit that the proposal could be considered to run counter to the recommendations of the Rural Housing Guidelines which states that new development should be guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. I consider that the proposal should only be accepted where an essential housing need has been established and that

absolutely no other alternative means to meet her requirements can be identified. As detailed above I do not consider that this has been substantiated in this instance.

In response to the appellants' concerns regarding surface water disposal and location of soakaways relative to their property the agent for the applicant submitted details of the proposed drainage arrangement by way of soakaways at the proposed entrance and along the access laneway which, it is claimed, will eliminate the lodgement of water and reduce the risk of flooding in the neighbouring garden that presently occurs. A separation distance of 20 metres is marked between the proposed soakaways and any existing and proposed bored wells. I consider the response to be reasonable and consider that this matter can be addressed by condition should the Board be disposed to a favourable decision.

11.5 AA – Screening

The site is c. 7km to the north of the nearest point of the Great Island Channel SAC (site code 01058) the qualifying interests for same being mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadows. Detailed objectives have been drawn up for the site the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Taking into consideration the qualifying interests as detailed, the small scale nature of the development and the relative separation between the 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 number 01058 and in view of the site's 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

1. It is considered that the additional vehicular movements that would be generated as a result of the proposed development at the intersection of the private laneway onto the local road where a speed limit of 80 km/h applies, and where sight distances are restricted, would give rise to an increase in conflicting vehicular movements which would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing development in the vicinity and having regard to the soil conditions, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

Pauline Fitzpatrick
Inspectorate

July, 2016