



An
Bord
Pleanála

Inspector's Report PL88.247061.

Development	Dwelling house, septic tank system and access road.
Location	Kilcrohane, Bantry, Co Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	16/00312.
Applicant(s)	Noel and Elaine Spillane.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First party versus decision.
Appellant(s)	Noel and Elaine Spillane.
Observer(s)	None.
Date of Site Inspection	17 October 2016.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. The appeal site is located on Sheep's Head, in the village of Kilcrohane, West County Cork. Kilcrohane is an attractive small coastal village near the far end, and on the south side of, the Sheep's Head peninsula. The Kilcrohane River runs from north to south, through the centre of the village and past the appeal site.
- 1.2. The appeal site itself is a gently sloping agricultural field, currently in grass, to the rear of an existing modern two storey house. The site is accessed from the public road along a private driveway serving a dwelling, which eventually becomes a track. The driveway also allows access to a wastewater treatment plant, which is located in a fenced off compound adjacent to the river and south west of the appeal site. The boundaries of the appeal site are not defined.
- 1.3. The site location map which accompanies the application, outlines the land in the ownership of the applicant and includes three existing dwellings along the public road to the north east.

2.0 Proposed Development

- 2.1. The applicant proposes to construct a two storey gable pitched roof detached dwelling of up to 7.2 metres in height (floor area 170 sq.m.). The development also includes an access driveway and a septic tank with connection to the Council foul sewer.
- 2.2. The application documentation includes a Site Specific Flood Risk Assessment, prepared by Concept Design Consulting Engineers.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for a single reason, summarised below:

- It is an objective to facilitate the further development of the village of Kilcrohane, including key infrastructure. The proposed development by

reason of its proximity to an existing wastewater treatment plant would be prejudicial to future upgrades, process improvements or expansion.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report is summarised as follows:

- The principle of residential development at this location is acceptable.
- The referral of flood risk assessment issues to the specialist engineer for comment.
- A heritage assessment and AA screening exercise was carried out.
- Refusal of permission was recommended on the basis of the submission from Irish Water.

3.2.2. Other Technical Reports

Area Engineer's Report. Standard technical conditions in relation to the septic tank and surface water are recommended.

Estates Primary Report (Flood Risk Assessment). Permission should be refused because the site is located in an area which is at risk from flooding.

3.3. Prescribed Bodies

Irish Water Report. Initial report (28 June 2016) recommends the attachment of standard conditions in addition to specific conditions which relate to separation distances and the decommissioning of the septic tank pending a future upgrade of the Kilcrohane WWTP. A second report (1 July 2016) recommends refusal in relation to the proximity of the development to a wastewater plant.

3.4. Third Party Observations

Concern expressed about the impact that the proposed development would have on the future expansion of the existing wastewater treatment system.

4.0 Planning History

Adjacent sites

Planning authority register reference 16/00310 current appeal PL88.247057, permission refused for a house, garage and septic tank

Planning authority register reference 07/362, permission granted for house.

5.0 Policy Context

5.1. Development Plans

Bantry Electoral Area Local Area Plan 2011 Vol 1 2nd Edition January 2015

The appeal site is located within the Settlement Boundary of Kilcrohane Village Settlement Map as detailed on page 139 of the LAP.

The appeal site is located within the area susceptible to flooding zone A and B. The LAP contains a number of objectives with regard to flood risk, water quality and natural heritage, including:

- Flood Risk – Overall Objective, objectives FD 1-1 to 1-6.
- Kilcrohane Village - Section 20.2.9. Flooding
- Kilcrohane Village Section 20.2.10 Farranamanagh Lough candidate Special Area of Conservation
- Section 20.2.11 Water Quality.
- Kilcrohane Village Section 20.4.7. The level of development anticipated is based on the assumption that the required waste water infrastructure and water supply improvements identified by the Council will be delivered.

Kilcrohane Village – General Objective No. DB-01, includes:

(a) Within the development boundary of Kilcrohane it is an objective to encourage the development of up to 40 houses in the period 2010 – 2020.

(b) In order to secure the population growth and supporting development proposed in DB-01 (a), appropriate and sustainable water and waste water infrastructure, that will help secure the objectives of the relevant River Basin Management Plan and where

applicable the protection of Natura 2000 sites, needs to be provided in tandem with the development.

(e) All proposals for development within the areas identified as being at risk of flooding will need to comply with Objectives FD 1-1 to FD 1-6 detailed in Section 1 of this Plan, as appropriate, and with the provisions of the Ministerial Guidelines – ‘The Planning System and Flood Risk Management’. In particular, a site-specific flood risk assessment will be required as described in objectives FD 1-4, 1-5 and 1-6.

Cork County Development Plan 2014

The site is located within an area designated – High Value Landscape.

5.2. Natural Heritage Designations

The appeal site is not subject to any natural heritage designations. There are however, three natural heritage sites located in the wider area of the appeal site, they are:

- Farranamanagh Lough SAC (site code 002189) located approximately 580 metres to the south east
- Sheep’s Head SAC (site code 000102) located approximately 620 metres to the west.
- Sheep's Head to Toe Head SPA (site code 004156) located approximately a kilometre to the south west.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been lodged against Cork County Council’s notification of decision to refuse permission. The main grounds of appeal can be summarised as follows:

- The proposed house would not be prejudicial to the future upgrade, improvement or expansion of the existing wastewater treatment plant. The separation distances set out for such treatment systems (EPA Code of

Practice - Treatment Systems for Small Communities, Business, Leisure Centres and Hotels), require 50 metres from the nearest dwelling and at least 30 metres, depending on land ownership. The applicant has submitted a drawing which details land within the ownership of the operator of the treatment system that could accommodate expansion. In order to preserve the development potential of lands identified within the settlement boundary of the LAP, agricultural lands to the south and west would be a more appropriate location for the expansion of the plant.

- The proposed dwelling accords with the development boundary of the village.
- The proposal to accommodate primary treatment of wastewater (septic tank) on site, was as per agreed with the Local Authority.
- There are conflicting submissions from Irish Water on the planning application, firstly (28 June 2016) stating no objection and which recommends refusal (6 July 2016). Irish Water have not fully considered how the site might be upgraded and therefore cannot conclude the prejudicial nature of the dwelling or otherwise.

6.2. **Planning Authority Response**

The planning authority has no further comments, as the matter was refused on the basis of an Irish Water requirement.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. The key issues can be dealt with under the following headings:

- Concurrent Appeal.
- Wastewater Treatment Plant.
- Flood Risk.
- Appropriate Assessment.

7.2. Concurrent Appeal

- 7.2.1. The Board are requested to note a concurrent appeal adjacent to this site. The relevant appeal is PL88.247057 for a dwelling, domestic garage and septic tank. There are interconnected issues to do with wastewater treatment, however, I have assessed each case on its own merits.

7.3. Wastewater Treatment Plant

- 7.3.1. The appeal site is located within the Settlement Boundary of Kilcrohane Village as detailed in the Bantry Electoral Area Local Area Plan 2011. Residential development of the type and form proposed by the applicant is a stated objective of the LAP. In addition, a key objective of the LAP is to secure appropriate and sustainable water and waste water infrastructure. The LAP warns that future development is based on the assumption that the required waste water infrastructure is delivered. I consider that given the location of the site within the settlement boundary of Kilcrohane and other supportive objectives contained in the LAP, that the design and principle of the proposed dwelling is acceptable.
- 7.3.2. The reason for refusal was based upon the recommendation of Irish Water. I note however, that the initial report of Irish Water recommended standard technical requirements and specific conditions with regards to the proximity of the development from the existing wastewater treatment plant and the decommissioning and by-pass of the proposed septic tank pending the upgrade of the plant. A subsequent report from Irish Water and a follow up correspondence from the Wastewater Treatment and Pumping Section of the Council revises the recommendation to a refusal and advised that the slight possibility of one dwelling could be considered in a location which does not impact upon the future upgrade of the wastewater treatment plant. The required amendments to the site layout would require consultation with Irish Water and a new planning application.
- 7.3.3. It is within the context of the security of wastewater treatment for Kilcrohane that the acceptability of the location of the proposed dwelling must be considered. The LAP set outs in Objective DB-01 (b), the importance of wastewater treatment in tandem with the growth of Kilcrohane. The current wastewater treatment infrastructure is located to the south west of the appeal site, along the banks of the Kilcrohane River and according to the applicant has a design capacity of PE125. The wastewater

treatment plant site is a linear plot of land, approximately 20 metres at its narrowest, tapered to a point at its eastern access and broadens out to the west. I do not know the full extent of the treatment plant operator's landholding and I have no technical information to assess whether or not the site has any scope to expand or increase its capacity in line with the growth of Kilcrohane. I do note however, that the map which accompanies the LAP does not detail a buffer zone or possible expansion cordon around the existing treatment plant. It is therefore, difficult to determine with any certainty whether or not the proposed dwelling would impact upon the ability of the treatment plant to develop in line with greater demands.

- 7.3.4. A balance must therefore be achieved between the broad objective of the LAP to secure waste water treatment infrastructure and accommodate residential development whilst assessing the feasibility of treatment plant expansion. The proposed location of the dwelling as detailed on layout plans submitted by the applicant, is given as 50 metres from the location of the existing treatment plant. The most relevant technical document in this regard, is the Environmental Protection Agency's Wastewater Treatment Manuals - Treatment Systems for Small Communities, Business, Leisure Centres and Hotels. The guidelines recommend that a buffer zone should be established around the site of the treatment plant and Table 4 Recommended Minimum Distances from Treatment Systems, sets a distance of 50 metres for the approximate number of houses served greater than 40. This is to ensure that noise and odour nuisance will not affect dwellings. The guidelines go on to state that at least 30 metres of that buffer zone should be in the control of the treatment plant operator. Under no circumstances should residential development be undertaken within the distances outlined in table 4 and in some cases the buffer zone should be expanded if the plant is particularly noisy or emits excessive odours. The guidance is relatively clear on the matter of separation distances. Irrespective of the desired amount of land that should be within the control of the operator, the location of the proposed dwelling is just outside the recommended minimum distances but this may hamper future plant expansion.
- 7.3.5. The locational information I have to hand is supplied by the applicant. I have no data from the wastewater treatment plant operator on the exact position or extent of the plant or any information on future expansion or upgrade plans. Of some relevance however, is correspondence from the Wastewater Treatment and Pumping Section

of the Council, dated 4 July 2016 which outlines the possibility of a single dwelling on an alternate location within the site, subject to consultations with Irish Water prior to a new planning application. In addition, I do note the applicant's claim that the plant is oversubscribed at present and I can only conclude that future upgrade or expansion is inevitable. In the absence of conclusive and accurate information on the specifications of the existing treatment plant and the resultant uncertainty I have about establishing a buffer zone, I have no option but to exercise caution. To grant permission could constrain any future plans to increase the capacity of the treatment plant and limit the growth of Kilcrohane. Therefore, I consider that the proposed development would contravene a stated objective as outlined in Objective no. DB-01 (b) of the LAP and permission should be refused.

7.4. Flood Risk

7.4.1. The applicant submitted a flood risk assessment with their planning application and to which the Estate Primary Report raised concerns about content and conclusions. Notwithstanding the content of the Council's report, the applicant has submitted a report which attempts to address the issue of flooding broadly in line with the need to comply with Objectives FD 1-1 to FD 1-6 detailed in Section 1 of this LAP, and with the provisions of the Ministerial Guidelines – 'The Planning System and Flood Risk Management'. Of specific relevance to the subject appeal, is that the site is located within the settlement boundary of Kilcrohane. Such a location receives special consideration in relation to flood risk and objective FD 1-6 of the LAP recognises that development in a targeted growth area would be acceptable. In this respect I note that the majority of Kilcrohane is located within the area susceptible to flooding; zone A and B, so therefore development throughout the village would have to be carefully considered with respect to flood risk and flood resilience. I consider that residential development at the appeal site, as with other locations within most parts of Kilcrohane would benefit from robust flood risk assessment and flood resilience recommendations. I do not consider it necessary to include any reasons related to flood risk, should permission be refused.

7.5. Appropriate Assessment

7.5.1. There are three designated sites in the wider vicinity of the appeal site. Of most relevance due to its downstream location is Farranamanagh Lough SAC (site code

002189) approximately 580 metres to the south east and to a lesser extent, Sheep's Head to Toe Head SPA (site code 004156). The Kilcrohane River is located approximately 6 metres to the south of the site and flows into Dunmanus Bay, south west of Farranamanagh Lough. The qualifying features of this SAC include a mix of habitats, such as coastal lagoons (a priority habitat) and perennial vegetation of stony banks. Detailed conservation objectives for the SAC have been drawn up, the overall aim being to ensure that the favourable conservation condition of the Annex I habitats and Annex II species for which the SAC has been selected is maintained.

- 7.5.2. Taking into consideration the small scale nature of the development as proposed, connection to a mains foul sewer, the distance between the site and the SAC, and notwithstanding the proximity of the Kilcrohane River, 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 002189, in view of the sites' conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. In view of the above it is recommended that permission would be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

1. It is an objective of the Bantry Electoral Area Local Area Plan 2011 (2nd Edition January 2015), to support sustainable water and wastewater infrastructure. The proposed development by reason of its proximity to an existing Wastewater Treatment Plant would not support this objective as it would be likely to impede future upgrades, process improvement works or expansion of the Plant. The proposed development would therefore contravene an objective

indicated in the local area plan and be contrary to the proper planning and sustainable development of the area.

Stephen Rhys Thomas
Planning Inspector

9 November 2016