



An
Bord
Pleanála

Inspector's Report PL04.247120

Development	Construction of a dwelling, treatment system and site works
Location	Fergus, Dripsey, Co. Cork
Planning Authority	Cork Co. Co..
Planning Authority Reg. Ref.	16/5319
Applicant(s)	Greg & Tracey Cronin.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant(s)	Greg & Tracey Cronin.
Observer(s)	None
Date of Site Inspection	18 th October, 2016.
Inspector	A. Considine

1.0 **Site Location and Description**

- 1.1. The subject site is located in a rural area of Co. Cork, in the townland of Fergus, Dripsey, approximately 5 miles from Ballincollig and approx. 3km to the south east of Coachford. The site is located in a very beautiful location and offers spectacular views over the River Lee to the south. The site itself covers as stated area of 0.78ha and is L shaped. The northern area of the site, and the proposed location of the house, is currently occupied by a wooded area and the lower area of the site, to the south, is currently under grass and used for agricultural purposes.
- 1.2. Access to the site is via the local road network and ultimately a cul-de-sac road which serves the existing farm yard and other buildings, as well as the rental properties on the holding located immediately to the south of the current proposed development site. To the further south of the site, lies the River Lee Valley and Farran Woods is located on the southern shores of the river. The National Rowing Centre is also located on the southern shores of the River Lee in this area.
- 1.3. The northern shores of the River Lee comprise a number of houses and farm holdings, including the subject site.

2.0 **Proposed Development**

- 2.1. Permission is sought for the construction of a dwelling, effluent treatment system and associated site works all at Fergus, Dripsey, Co. Cork.
- 2.2. The proposed house has a stated floor area of 277m² laid out over two floors in the split level house. The house will have an overall height of 9.2m when viewed from the south and will include 4 double bedrooms, a large kitchen / diner, lounge with large balcony overlooking the River Lee and a storage area at the lower level. The proposed finishes include a slate roof with a plaster finish as well as the use of timber panelling in the rear gable.
- 2.3. The proposed house is to be serviced by a private bored well and a septic tank, together with 108m of percolation trenches.

3.0 Planning Authority Decision

3.1. Decision

The PA decided to refuse permission for the proposed development for two stated reasons relating to the visual impact of the development in a designated high value landscape area and given that the site is located in a rural area under strong urban influence, the PA was not satisfied that the applicants demonstrated a need to construct an additional new dwelling at this location or that the applicants needs could not be met within their existing accommodation.

3.2. Planning Authority Reports

3.2.1 Planning Reports

The Planning Officers report considered the proposed development in terms of the planning history associated with the landholding, the policy context, internal and external reports submitted and site specific matters. The report concluded recommending that permission be refused for two stated reasons.

3.2.2 Other Technical Reports

Area Engineer: The report raises concerns in terms of available sight distances at the entrance and the requirement for permissions for the necessary alterations in providing unobstructed sightlines. In addition, the report notes that a site layout plan showing the positions of bored wells and waste water treatment systems of neighbouring dwellings is required. Further information is required.

Liaison Officer: The report notes the CDP requirements relating to the Rural Area under Strong Urban Influence designation, as well as the high value landscape. The report considers that the development will be prominent and detract from the scenic amenities of the area. A smaller dormer type dwelling was refused on the adjoining site and it is considered that the house design is inappropriate in terms of scale and design in the landscape. Refusal is recommended.

3.3. Prescribed Bodies

An Taisce: requests that the application be determined having regard to the CDP, National Spatial Strategy and Sustainable Rural Housing Guidelines and the impact of the proposed effluent treatment system.¹

3.4. Third Party Observations

None

4.0 Planning History

4.1. On application site:

PA ref 14/6111: Permission refused to Greg & Tracey Cronin for a two-storey dwellinghouse, sewerage treatment system, site entrance and all associated site works for the following stated reason.

The site is located in a designated scenic landscape area overlooking the Lee Valley and it is in view, in parts, from the scenic route, S38. The relevant objectives in Cork County Development Plan 2009 are to preserve the visual and scenic amenities of County Cork's built and natural environment (ENV 2-7), to preserve the views and preserve the character of the views and prospects from scenic routes (ENV 2-11) and that new buildings fit appropriately into the landscape (ENV 4-13). Having regard to the open and elevated nature of the site, its location in a prominent position within a designated scenic landscape area, that the site is in view from a scenic route, and to the scale and design of the proposed dwelling, together with removal of existing trees, it is considered that the proposed development would form a highly prominent and obtrusive feature on the landscape and would be seriously injurious to the visual and scenic amenities of the area. It is considered that the proposed development would be contrary to the stated objectives of the Cork County Development Plan 2009 and would be contrary to the proper planning and sustainable development of the area.

4.2. On adjacent site to east:

¹ The Board will note that the second page of the An Taisce submission is missing from the file.

PA ref 01/3879: Permission refused to William and Marie Cronin for the construction of a dormer bungalow on a site to the east of the current subject site, for the following stated reasons:

- 1) The site is located in an elevated position where the proposed development would be unduly obtrusive on the landscape in the Lee Valley, an area designated as an area of visual importance in the County Development Plan. The proposed development would seriously interfere with the views available which are of special amenity value and necessary to preserve.
- 2) The proposed development would be premature pending the determination of a road layout for the area.

PA ref 03/4390: Permission refused to William and Marie Cronin for the construction of a dwellinghouse on a site to the east of the current subject site, same site as 01/3879, for the following stated reason:

Having regard to the location of the site in a prominent position within a designated scenic landscape area overlooking the Lee Valley it is considered that the proposed development would form a highly prominent and obtrusive feature on the landscape which would be out of character with, and seriously injurious to, the scenic amenities of the area, which it is an objective of the Planning Authority to preserve. Accordingly, it is considered that the proposed development would be contrary to the proper planning and development of the area.

4.3. On landholding:

PA ref 97/2951: Permission granted, subject to conditions, to Marie Cronin for the installation of septic tank to serve existing dwelling.

PA ref 98/5470: Permission granted to Derry Cronin for alteration & conversion of disused farm building to 2 no. two storey apartments for short term letting.

PA ref 01/3882: Permission refused to Greg Cronin for the construction of a dwellinghouse for short term/holiday letting for the following stated reason:

The proposed development, when taken in conjunction with existing development in the area would undesirably contribute to an excessive

concentration of suburban type development in a rural area, which would militate against the preservation of the rural environment and lead to demands for the uneconomic provision of public services and community facilities. The proposed development, would therefore be contrary to the proper planning and development of the area, as provided for in the County Cork Development Plan which seeks to direct development to designated settlements

PA ref 03/4794: Permission refused to Derry Cronin for the construction of 4 no self-contained log cabin homes for the following stated reason:

Having regard to the location of the site in a prominent position within a designated scenic landscape area overlooking the Lee Valley, it is considered that the proposed development would form a highly prominent and obtrusive feature on the landscape which would be out of character with, and seriously injurious to the scenic amenities of the area, which it is an objective of the Planning Authority to preserve. Accordingly, it is considered that the proposed development would be contrary to the proper planning and development of the area.

The proposed development is located within the Rural Housing Control Zone where it is the policy of the Planning Authority, as set out in the County Development Plan, to strongly discourage new housing development except within established villages or village nuclei. It is also the policy of the Planning Authority to recognise the essential role of rural villages in the long term sustainability of rural areas and to encourage a significant proportion of new development to be located within existing villages. The proposed development would therefore be in conflict with the policies of the Plan and would, accordingly be contrary to the proper planning and sustainable development of the area.

PA ref 05/2211: Permission sought by Greg Cronin for the construction of a dwellinghouse. Following a request for further information issuing in relation to housing need and engineering issues, the application was withdrawn.

PA ref 06/6241: Permission sought by Tomas Collins for the construction of a dwellinghouse. Application was withdrawn prior to a decision issuing.

PA ref 07/7645: Permission granted, subject to conditions, to Marie Cronin for the construction of silage slab with tank, slurry tank and cattle shed with slats and associated site works.

PA ref 07/11491: Permission granted, subject to conditions, to Marie Cronin for the construction of extension to existing milking parlour and slurry tank.

PA ref 08/5925: Permission granted, subject to conditions, to Derry Cronin for the construction of a dwellinghouse, garage, treatment unit and demolition of disused agricultural cattle shed and silage pit.

PA ref 14/4591: Permission granted to Marie Cronin for the construction of a slatted cattle shed (including alterations to adjoining shed) and construction of feed/machinery storage shed.

PA ref 15/6011: Permission granted, subject to conditions, to Marie Cronin for the following agricultural development comprising a) Demolition of: [i] milking parlour, dairy and store, [ii] straw bedded livestock housing and general store, and [iii] straw bedded livestock housing. (b) Partial demolition of existing slatted slurry tank. (c) Construction of agricultural building to include milking parlour, livestock handling bedded calf housing and slatted slurry storage tank. (d) Erection of meal bin and water storage tank along with associated site works.

5.0 Policy Context

5.1. Development Plan

The Cork County Development Plan, 2014 is the relevant planning policy document. The subject site is located within the Greater Cork Ring Strategic Planning Area, in an area of Co. Cork which has been identified as being a Rural Area under Strong Urban Influence, and having a High Value Landscape. In this regard, the following policy objectives are considered applicable:

- Objective RCI 4-2: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1):

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 a number of identified categories including:

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.

- Objective RCI 4-8: Exceptional Health Circumstances: This policy objective seeks to facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. The application for a rural dwelling must be supported by relevant documentation from a registered medical practitioner and a qualified representative of an organisation which represents or supports persons with a medical condition or a disability.
- In addition, the subject site is located within the Greater Cork Ring Strategic Planning Area. In terms of settlement strategy, the CDP at CS 3-2 deals with the 'Network of Settlements: Lower Order Settlements' and identifies that Other Location settlements are to be identified in the Local Area Plans. The CDP provides that it is the strategic aim to 'recognise other locations, as areas which may not form a significant part of the settlement network, but do perform important functions with regard to tourism, heritage, recreation and other uses'. CS 4-1 deals with the Greater Cork Ring Strategic Planning Area.
- The Plan identifies the area, in terms of Landscape Character Type, as being a Hilly River & Reservoir Valley, Type 8. This landscape is identified as having a high landscape value and sensitivity with a national level importance. County Development Plan Objective GI 6-1: Landscape, is considered relevant in this instance and it is the stated policy of the Council:
 - a) Protect the visual and scenic amenities of County Cork's built and natural environment.
 - b) Landscape issues will be an important factor in all landuse proposals, ensuring that a proactive view of development is undertaken while maintaining

respect for the environment and heritage generally in line with the principle of sustainability.

c) Ensure that new development meets high standards of siting and design.

d) Protect skylines and ridgelines from development.

e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

Objective GI7-1 of the Plan deals with General views and prospects

- Section 4.6 of the Plan deals with the general planning considerations for rural housing.
- Objective RCI 6-1 of the CDP deals with Design and landscaping of new dwelling houses in rural areas while RCI 6-2 deals with Servicing individual houses in rural areas.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision of Cork County Council to refuse planning permission for the construction of the dwelling house. The grounds of appeal are summarised as follows:

- The development plan does not prohibit developments in designated high value landscapes, but to manage the change. The applicant has demonstrated that the development can be integrated into the existing landscape.
- The decision to refuse permission is not consistent with the pattern of development in the area. PA ref 12/5160 and 14/6088 are cited as demonstrating inconsistencies with the interpretation of local authority policies.
- The applicants meet all the criterion for the construction of a dwelling. The PA has erred in their assertion that alternative accommodation is available. The current accommodation is rented.

- The house has been designed to accommodate disability access requirements for a wheelchair user. Appropriate landscaping will enhance the landscape.
- Appropriate sight lines can be achieved and services for adjacent properties have been detailed on information submitted.

6.2. **Planning Authority Response**

The PA did not respond to this first party appeal.

6.3. **Observations**

None noted.

7.0 **Assessment**

7.1. Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development & planning history
2. Visual & Residential Amenity Issues
3. Site suitability
4. Appropriate Assessment

7.2. **Principle of development**

7.2.1 The subject site is located within the townland of Fergus, Dripsey, Co. Cork and in an area identified as a rural area under strong urban influence for housing in the County Development Plan, 2014. The Plan, together with the Sustainable Rural Housing Guidelines, provide clear guidance that there is a presumption against the development of one off houses except where the proposal constitutes a genuine rural generated housing need based on social and / or economic links to the particular rural area. The applicant is required to accord with one of five categories of rural housing need in accordance with Policy Objective RCI 4-2. In addition to

Objective RCI 4-2, Policy Objective RCI 4-8 is also considered relevant in terms of the current proposal which relates to exceptional health circumstances, given that the applicants have indicated that the house design proposed is required to accommodate a wheelchair user.

7.2.2 The applicants have advised that they have lived in the area for more than the requisite seven years and are therefore can be considered as local rural persons. The applicants have advised that they currently reside in rented accommodation on the family farm and Mr. Cronin advises that he is a farmer. The rented accommodation is located to the south of the current proposed development site. The issue of compliance with Cork County Councils settlement location policy was raised in the second reason for refusal from Cork County Council and it was determined that the applicants had not demonstrated the need to construct an additional new dwelling at this location and that the applicants needs cannot be met within the existing accommodation. In response to this, the applicants have submitted that the rented accommodation is not available for sale and therefore is not an option. In terms of compliance in principle with the settlement location policy of the Cork County Development Plan, and given that it would appear that neither applicant have owned their own home in the rural area, it might reasonably be considered that their housing need has not been met and that they would comply with the requirements of the relevant policy.

7.2.3 Further to the above, Objective RCI 4-8 is considered relevant. The applicants are seeking to comply with development plan objectives for rural housing, possibly on the exceptional health circumstances of one of the applicants. It is submitted that one of the applicants is a wheelchair user but no further details have been provided. County Development Plan Objective RCI 4-8 deals with Exceptional Health Circumstances, and states as follows:

Facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. The application for a rural dwelling must be supported by relevant documentation from a registered medical practitioner and a qualified representative of an organisation which represents or supports persons with a medical condition or a disability.

This objective applies to all rural housing policy area types.

In addition to the above, the Sustainable Rural Housing Guidelines provide that 'planning authorities should recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support. In such cases, and in the absence of any strong environmental, access or traffic reasons for refusal, a planning authority should consider granting permission, subject (where appropriate) to conditions regarding occupancy.' In the absence of any real information in this matter, I suggest that it would be inappropriate to consider that the development complies.

7.2.4 Notwithstanding the above, the Board will note the location of the subject site within an area designated as being under strong urban influence, and that the receiving landscape has been afforded a high landscape value and sensitivity with a national level importance. Together with the existence of the existing houses on the overall landholding, I share the concerns raised in the planning authority assessment of the proposed development. While I accept the comments of the applicants with regard to the existing accommodation situation, I would also wonder if adequate consideration has been afforded to the potential for re-development of the existing house, or indeed, an alternative site which would be less visually prominent. In the absence of medical considerations, I would consider that a grant of planning permission should not be considered appropriate and the proposal before the Board raises a wider issue in terms of rural housing policy. Ownership of a site should not be considered an appropriate reason to consider compliance with rural housing policies particularly given the location of the site within such a high value landscape of national importance.

7.2.5 In particular, and having regard to the location of the site together with the development plan and Rural Housing Guideline requirements, there is an onus to have regard to the protection of the existing landscape and rural amenities of the area. The Board will note comments to this effect made by the Councils Liaison Officer in their report. Issues relating to compliance with landscape protection policies will be discussed further below.

7.3. **Visual & Residential Amenity Issues**

7.3.1 In terms of the proposed design of the house, I have no real objection in principle. However, given the high value landscape in which the site lies, together with the proximity to the existing houses, I am concerned that the proposed design does not reflect the environment into which it is proposed to sit. I acknowledge that efforts have been made to design the house to sit into the contours of the landscape but I do not consider that the proposal is appropriate having regard to its relationship to the existing development, or how if permitted, it would affect the rural character of the area. I do acknowledge the level differences identified on the site layout plan, as well as the existing tree / wood area to the north of the site, but I am concerned that the general amenities of this rural landscape would be significantly impacted upon if permitted as proposed and the house, would represent a significant visual intrusion in the landscape, when viewed from the wider area. In addition, the Board will note that the quality of the plans submitted in support of the proposed development are poor and inadequate to fully allay the concerns of the visual impacts associated with the proposed development.

7.3.2 The subject site is located in a landscape which overlooks the River Lee and which has been defined as being of national importance and in this regard, consideration as to the potential visual impact of the development must be considered. The applicant has advised that the house will be constructed within the wooded area, which is primarily coniferous, with some deciduous trees. The quality of the trees is questionable, with evidence of some damage. The proposal provides that non-native trees are in poor condition and will be removed, with 9 native trees identified in the area as being worthy of preserving. Clear details of any proposed felling have not been provided and therefore, I would consider it inappropriate to rely on the presence of any significant wooded area to provide appropriate screening for the development from the wider area.

7.3.3 The size and scale of the proposed house does not reflect any real traditional features and would, if permitted, represent a significant visual feature in this sensitive landscape. While I accept that the design would facilitate spectacular views over the Lee Valley to the south and Farran Woods to the south of the river, I consider that the visual impact in the wider landscape would be inappropriate and contrary to the County Development Plan policies which seek to protect this asset.

7.4. **Site Suitability**

Water Services:

- 7.4.1 In terms of site suitability, the Board will note that it is intended to install a septic tank waste water treatment system to service the house. It is also noted that the house is to be serviced by a private well for its water supply. Having considered the information provided on the planning authority file with regard to the proposed development, it is clear that consideration of the sites suitability with regard to the treatment and disposal of waste water has been considered. In this regard, the applicant submitted a completed site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site.
- 7.4.2 The site characterisation assessment, submitted as part of the planning application, notes that no bedrock was identified in the trial pit, which was dug to 2.2m bgl. The assessment identifies that the site is located in an area where there is a Groundwater Protection Scheme and categorises the site as being a locally important aquifer (LI) with extreme vulnerability. A Groundwater Protection Repe of R2¹ is indicated. The soil type is described as 'TDSs – Sandstone Till (Devonian)' and the bedrock type is 'DORS – Devonian Old Red Sandstone'. *T tests carried out on the site, at a level of 0.85m bgl, yielded a value of 5.28. *P tests were carried out at the site at a level of 0.4m bgl, yielded a value of 8.19. The report concludes recommending a septic tank and percolation area with a capacity PE of 6.00 and a percolation area comprising of 8 trenches of 18m in length. The system will discharge to groundwater with a hydraulic loading rate of 20.00 l/m²/d.
- 7.4.3 Overall, and while I acknowledge the submission on file with regard to the treatment and disposal of waste water arising from the site, I consider that there remain a number of issues associated with same. In particular, given the poor quality of the plans provided to the Board, the location of the existing well which serves the existing house to the south has not been clearly identified. Having regard to the fast nature of the percolating qualities of the soil, together with the topography of the site, and notwithstanding the separation distance between the treatment system and the residential site to the south, I am unable to conclude that the development will not impact on the quality of the groundwater feeding the well. In addition, the concentration of private systems in the area also needs to be considered, particularly given the proximity of the river. While I acknowledge the submissions of the applicant

in this regard, the concentration of private effluent treatment systems in this area would have potential to result in a public health hazard.

Roads & Access:

7.4.4 Access to the proposed development site is over public roads and I am satisfied that a grant of permission in this instance, would not result in a traffic hazard. The Board will note the requirements of the Area Engineer with regard to the achievement of sight distances at the entrance to the site. any potential requirement for the removing of roadside boundaries to achieve sight distances would contribute to the visual impacts associated with the proposed development in this sensitive landscape.

7.5. **Appropriate Assessment:**

The subject site is located at a distance of +12km from the nearest European site, being The Gearagh SAC and pNHA, Site Code 000108, located to the west of the subject site. The conservation objectives for the site seek to maintain or restore the favourable conservation status of habitats and species of community interests so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at national level.

The subject development site itself can be considered a greenfield site within a rural area. Having considered the nature of the proposed development, together with the separation distance to the nearest Natura 2000 site and given the scale of the proposed development, 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

8.0 **Recommendation**

8.1. I recommend that planning permission should be refused for the proposed development, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located within 'Stronger Rural Areas under Significant Urban Influence' as set out in the current Development Plan for the area, and within a high value landscape with high sensitivity of national importance, where emphasis is placed on the protection of such landscapes and the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in the current Cork Rural House Design Guidelines, which Guidelines are considered to be reasonable. Having regard to the topography of the site, the elevated and prominent positioning of the proposed development, together with its overall design and scale, and the necessity to remove existing trees to accommodate the house, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity, and within this nationally important high value landscape. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

11th November, 2016