



An
Bord
Pleanála

Inspector's Report PL08.247513.

Development	Construct dwelling house, garage and wastewater treatment system.
Location	Ranalough, Currow, Killarney, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	16/623.
Applicant(s)	Patrick McCarthy and Roisin Daly.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party versus decision.
Appellant	John Horan.
Observer(s)	None.
Date of Site Inspection	24 January 2017.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. The appeal site is located to the south of the village of Currow, close to the eastern approach of the runway at Farranfore Airport in East Kerry. The town of Castleisland is located approximately 7 kilometres to the north and Killarney is located 19 kilometres to the south.
- 1.2. The landscape in the vicinity of the appeal site is agricultural, comprising large fields mainly in grass and an undulating topography and steeply sloping ground close to rivers. The appeal site is located within a large rectangular shaped field currently in grass. The boundaries of the overall field comprise mature hedgerows atop banks with some upstanding trees. The site sits along a defined ridge line, on the 110 metre contour associated with Currow Hill to the south. A powerline crosses the southern portion of the large field. The site is elevated and exposed, there are long ranging views to the north west. The site slopes upwards from the public road. The road from which the site will take its access is narrow, however, two cars can pass easily when speeds are reduced. The approach to the site from the north is steep. The sightlines from the site are generally good in both directions.
- 1.3. The character of the wider area is characterised by some farmhouses, farmyards, single one off dwellings and groups of dwellings sited alongside the road. The immediate area in the vicinity of the appeal site, on the eastern uphill portion of the road has not been recently developed for one off housing.

2.0 Proposed Development

- 2.1. The applicant proposes to construct a detached dormer style dwelling with a gable pitched roof dwelling of up to 7 metres in height (stated floor area 248 sq.m.), with plaster finish and stone facing cladding details.
- 2.2. Install a mechanical treatment unit with sump pump and polishing filter, connection to mains water supply (Currow Hill Group Water Scheme).
- 2.3. A 56 sq.m. garage with a gable pitch roof profile.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission, subject to 16 conditions, relevant conditions are summarised as follows:

- Condition 5. The dwelling shall be first occupied by the applicant for a period of at least seven years, submission of a section 47 agreement under the Planning and Development Act 2000 (as amended).
- Condition 6. The use of the dwelling shall be as a primary permanent all year round residence, it shall not be used as a holiday home.
- Condition 13. Good practice during construction phase shall ensure that there is prevention of discharge of contaminated surface water.
- Conditions 15, 16 and 17. Technical requirements and obligations with regard to the proposed wastewater treatment system.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planners report can be summarised as follows:

- Further information with respect to the site layout which shows an access road for which permission has not been sought and a landscaping plan.
- An AA Screening assessment was carried out, no significant impact to the conservation status of any Natura 2000 site was concluded.
- The site is located in an area categorised as a Stronger Rural Area, however, the applicant, as a daughter of the landowner, meets the criteria of the rural settlement policy.
- The position and design of the house ensures it will not be visually intrusive.

The final Planner's report recommends a grant of permission based upon the acceptability of the further information submitted.

3.2.2. Other Technical Reports

Site Assessment Unit – Environment Section of the Council. The site is suitable for the treatment of wastewater through the use of an on-site effluent treatment system and polishing filter, subject to standard technical conditions. Additional comments recorded in the Planner’s Report refer to the location of a well at an acceptable distance from the proposed wastewater system.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

The issues raised are broadly the same as those raised in the grounds of appeal, specifically the issue of the location of a well and the likelihood of cross contamination.

4.0 **Planning History**

None recorded for appeal site.

5.0 **Policy Context**

5.1. **Development Plan**

Kerry County Development Plan 2015-2021

Rural Area Types Map 3.1 – Stronger Rural Area.

The site is not located in any designated amenity area, Map 12.1k, it is therefore considered to in a Rural General Area.

Section 3.3 Rural Settlement Strategy

RS-1 Ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG) and the Development Guidance document of this Plan.

RS-2 Require the design of rural housing to have regard to the “Building a House in Rural Kerry; Design Guidelines” (KCC, 2009).

RS-4 Ensure that the provision of rural housing will protect the landscape, the natural and built heritage, the economic assets and the environment of the County.

RS-5 Ensure that future housing in all rural area complies with the EPA's 2009 Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e < 10).

RS-6 Ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence. In addition, such development shall be subject to the inclusion of an occupancy clause for a period of 7 years.

Section 3.3.1.1 Identifying Rural Area Types,

Area 2 Stronger Rural Areas.

In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong rural/agricultural economic base. The key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas.

RS-10 Facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations.

RS-11 Consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban areas and villages and the wider rural area.

3.3.2.1 Rural General

These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character. Residential development in these areas shall be regulated in accordance with the provisions of Section 3.3.1 and objectives RS-1 to RS-4 and Table 3.7.

Table 3.7 Amenity Zoning Settlement Policy - The proposed dwelling shall be used as a permanent place of residence.

12.3.1 Zoning Designations - Rural General

Rural landscapes within this designation generally have a higher capacity to absorb development than the previous rural designations. It is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

Proposed developments in areas zoned Rural General, should in their designs take account of the topography, vegetation, existing boundaries and features of the area as set out in the Building a House in Rural Kerry Design Guidelines (Kerry County Council 2009). Permission will not be granted for development which cannot be integrated into its surroundings.

ZL-1 Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

ZL-4 Regulate residential development in Rural Areas in accordance with the zoned designation of that area and the policies outlined in the Rural Settlement Strategy set out in Section 3.3 of this Plan.

5.2. Natural Heritage Designations

Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161) is located over 7 kilometres to the east. The Castlemaine Harbour SAC (site code 000343) is located over 5 kilometres to the south. Anna More Bog NHA (site code 000333) is located over 2 kilometres to the north east.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged against Kerry County Council's notification of decision to grant permission. The main grounds of appeal can be summarised as follows:

- Fears that the proposed wastewater treatment system will contaminate a domestic well given the well's location downslope of the proposal.
- A map accompanies the appeal and details the location of the well.

6.2. Applicant Response

The applicant's response can be summarised as follows:

- There is a buffer of 0.575 acres between the proposed development and the existing well.
- Surface water rarely gathers in the corner of the field near the well and if it does, the water runs off to a roadside gully.
- In order to deal with any surface water run-off during construction, an environmental measures/procedures plan has been prepared. The plan locates spoil stock piles, haul routes and measures in place to manage surface water run-off.
- The applicant concludes that the detailed management plan attempts to manage surface water run-off and limit the potential for contamination of watercourses and other water sources (well).
- Additional material has been submitted with reference to the proposed wastewater treatment system and the prevailing soil conditions on the site. The material concludes that the minimum distance between receptor (well) and a percolation area has been exceeded.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1. From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues for consideration in the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Rural Settlement Policy.
- Wastewater Treatment.
- Visual Amenity.
- Traffic.
- Appropriate Assessment.

7.2. Rural Settlement Policy.

7.2.1. This is an application for single one off house and treatment system in a rural area of Co Kerry. The site is located in an area designated as a "Stronger Rural Area". Section 3.3 – Rural Settlement Strategy of the Kerry County Development Plan, Policies RS-1, 2, 4, 5, 6, 10 and 11 all refer to the appeal site. In stronger rural areas it is an objective of the Development Plan to permit single houses to facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations. In addition, it is a stated policy of the Council to consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban areas and villages and the wider rural area.

7.2.2. In respect of identifying if an applicant is an intrinsic part of the community in which they are raised, it is noted that the applicant has completed the supplementary information section of the planning application form. The applicant sets out that the landowner is their father and that the applicant is currently renting a dwelling. The applicant and their partner are teachers and work locally, Currow and Castleisland. On the basis of the available information, I am satisfied that the applicant has demonstrated sufficient intrinsic links to the area or that they satisfy the relevant eligibility criteria set out in Development Plan. I would draw the Board's attention to

Policy RS-6 of the Development Plan that states all residential development in rural areas will be for the use as a primary permanent place of residence and that in addition it shall be subject to the inclusion of an occupancy clause for a period of 7 years.

- 7.2.3. With regard to the stability of the rural population and the balance between village and rural area development, I have concerns that the proposed development runs contrary to the realisation of Council Policy. Currow Village is located a short distance to the north of the appeal site and provides a variety of services, including: local shops, post office, national school, community centre and church. The survival of such services is key to the long term viability of rural areas. Currow is a rural village with a long main street and a variety of house types on large plots and in small estates. The village is identified as a Small Village in the Settlement Hierarchy of the Development Plan and has a defined Settlement Boundary. In my opinion, in order to sustain the stability of the rural population it is important to consolidate settlements such as villages which provide essential services whilst balancing development in the wider rural area. In this respect I have observed that the hinterland of Currow is characterised by a high degree of one-off rural houses, which militates against the preservation of the rural environment and the efficient provision of public services and infrastructure in settlements such as Currow.
- 7.2.4. Though the applicant has demonstrated an intrinsic link to the community, it is not essential that they live in this particular rural location. In my view the bias towards the provision of one-off rural housing in the vicinity is damaging to the long term viability of nearby villages. In addition, the provision of sites for one-off housing is eroding the agricultural economic base for which the area has been identified as requiring support. Consequently, I consider that the applicant's proposal fails to strike a balance between development in villages and the wider rural area.

7.3. **Wastewater Treatment.**

- 7.3.1. The appellant has concerns that the location of the proposed wastewater treatment system will impact upon the integrity of their well. Fears are compounded by ground conditions observed by the appellant, such as ponding and flooding.
- 7.3.2. On the day of my site visit I noted that the corner mentioned by the appellant was slightly damper under foot than the rest of the field and I noted the occurrence of

rushes, indicators of damp ground. It is natural that water would gather at this location, being the lowest part of the field and adjacent to the public road. The appellant's well is located downslope of the proposed wastewater treatment system in the next field. The appropriateness of the proposed treatment system and the proximity of a domestic well therefore, requires assessment.

- 7.3.3. The site assessment for wastewater treatment was carried out by Tim O'Sullivan. For the purposes of the Site Characterisation Form, I note that the assessor failed to identify the existence of a well in the vicinity of the site and assumed that all dwellings are connected to a group water scheme. The Site Assessment Unit of the Council also noted the omitted well location, however, concluded that there would be no issues as the separation distances were adequate given the type of wastewater treatment system proposed.
- 7.3.4. The assessors report concludes that a septic tank and polishing filter system is acceptable on the site. The average T_{100} value was 213.00 which required the implementation of the modified method to derive a T value, in this case 51.36 (min/25mm). Given the nature of the site and soil conditions a 'P' test was required, the result of which was a P value of 49.29. The Council's Site Assessment Unit found the site assessment for wastewater treatment to be acceptable. With respect to the location of the appellant's downslope well, I note that the separation distance between pump unit/pump chamber and well is approximately 50 metres and between polishing filter and well approximately 70 metres. The separation distances in conjunction with soil conditions would accord with the advice provided by the Environmental Protection Agency's table 3 - Recommended Minimum Distance between a Receptor and a Percolation Area or Polishing Filter, contained in Annex B. Groundwater Protection Response - Code of Practice: Wastewater Treatment Systems for Single Houses.
- 7.3.5. Despite the applicant's testing of the site and conclusion that packaged wastewater treatment system and polishing filter is adequate for the purposes of treating wastewater generated by the dwelling; I am concerned at the layout of the site. Specifically, I have reservations about the location of the polishing filter approximately 45 metres upslope of the Kingspan Bioficient pumped unit and sump pump chamber. Furthermore, the polishing filter will be constructed in proximity to a series of retaining walls. The polishing filter is an integral and crucial element of the

proposed treatment system, the installation of which is very important to groundwater protection. However, of greater importance is the effective operation and maintenance of the proposed pumped unit. Effective and safe treatment of domestic wastewater will not occur if partially treated waste is not pumped to the polishing filter. Therefore, it is imperative that a robust maintenance regime is in place to ensure the ongoing effective operation of the system.

- 7.3.6. On balance however, and having reviewed the material submitted by the applicant with regard to domestic wastewater, I recommend that installation of the system should accord with Code of Practice: Wastewater Treatment Systems for Single Houses 2010, prepared by the Environmental Protection Agency.

7.4. **Visual Amenity.**

- 7.4.1. The site is not in a designated amenity area, but it will be the first dwelling on the upper side of the road and consequently will be both exposed and prominent. This will change the predominantly agricultural character of the area. I also note that initial layout drawings submitted by the applicant indicated a service road and a second dwelling to the north of the appeal site. The proposal was subsequently amended to show a single development site which abuts the public road, however, a partial service road is still shown on layout drawings. I am therefore concerned that the development of the site for future dwellings has been considered and planned for by the applicant and this would intensify the visual impact at this location.
- 7.4.2. As I travelled along the road southwards, I noted that the prevailing character of the area is agricultural grassland. There are pockets of sporadic one-off housing and groups of housing spread out along the road. The addition of another dwelling will serve to further erode the agricultural character of the area and tend towards a suburban one.
- 7.4.3. The applicant has submitted a comprehensive landscaping plan and intends to upgrade the existing stone and sod ditch roadside boundary with indigenous species. Notwithstanding the landscape plan which surrounds the site with a planted boundary, I consider that the conversion of this large agricultural field to residential purposes will have a detrimental impact on the surrounding landscape. The site is elevated and slopes upwards from the public road, this will render the site visible in the vicinity, changing the agricultural character of the area. I have doubts that the

landscape plan is sufficiently robust in terms of its scale to adequately absorb the former dwelling, garage, driveway and yard in to the receiving landscape. I also have some concerns that the modifications to the roadside boundary, the extent of which I do not know, may impact upon the landscape impact of the proposed development. This factor adds to my uncertainty that residential development is appropriate at this location.

7.5. Traffic.

- 7.5.1. The applicant has shown an 80 metre sight line in both directions whilst exiting the proposed site. The sight lines are achieved by the partial removal of the existing roadside boundary. It is difficult to determine with any degree of accuracy as to what extent and over what length the roadside boundary is to be modified or removed. I note the planning authority's attachment of a condition to clarify the exact dimensions of the new entrance and this is to ensure safe access to and egress from the site and minimise visual impact. Given the alignment of the public road in the vicinity, I do not have any strong concerns that a traffic hazard will be generated by the development as proposed.

7.6. Appropriate Assessment.

- 7.6.1. The appeal site is located more than 5 kilometres from the Castlemaine Harbour SAC and over 7 kilometres from the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA. The Council's planning report included an Appropriate Assessment Screening Report. The report concludes that significant effects on Natura 2000 sites are not considered likely. I note the content and conclusions of the Habitat Directive Screening Report.
- 7.6.2. The relevant qualifying interests associated with the Castlemaine Harbour SAC, at the upper reaches of the Gweestin River are stands of Alluvial Forest and Old sessile oak woods. The qualifying interests for the SPA are Hen Harrier and Short-eared Owl. The broad conservation objectives for both SAC and SPA are to maintain the favourable conservation condition of these interests.
- 7.6.3. Having considered the available information, in my opinion, given the scale of the development proposed, the nature of the receiving environment, the site location outside of the identified European sites, the downstream separation distances involved, and subject to the proposed wastewater treatment system which includes a

polishing filter complying with the requirements of the EPA Code of Practice, the proposed development would not be likely to have a significant effect on either SAC or SPA sites and would not undermine or conflict with the Conservation Objectives applicable for each site. No appropriate assessment issues arise and I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans or project on a European site.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. Having regard to the pattern of development in the vicinity, and to the location of the proposed site in a Stronger Rural Area where the County Council states that the stability of such areas is supported by a traditionally strong rural/agricultural economic base, it is considered that the proposed development fails to find the balance between development activity in urban areas and villages and the wider rural area and would therefore exacerbate and consolidate a trend towards the establishment of a pattern of haphazard rural housing in an unzoned rural area and would lead to an erosion of the rural and agricultural landscape character of this area. Furthermore, having regard to the nature of the proposed development, it is considered that it would lead to increased demands for the uneconomic provision of public services and facilities, where these are neither available nor proposed in the said Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The Board should note that this is a new issue in the appeal and that prior re-circulation might be appropriate.

Stephen Rhys Thomas
Planning Inspector

13 February 2017