



An
Bord
Pleanála

Inspector's Report PL.04.247585

Development	Dwelling, sewage treatment and site works.
Location	Barryscourt, Carrigtwohill, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/6152
Applicant(s)	Elayne and Tom Spillane
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As Above
Observer(s)	None
Date of Site Inspection	8 th February 2017
Inspector	Kenneth Moloney

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.2. Planning Authority Reports	4
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	6
6.2. Planning Authority Response	9
6.3. Observations	9
7.0 Assessment	9
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14

1.0 Site Location and Description

- 1.1. The subject site is located in a rural area in close proximity to the entrance of the Fota Island Resort.
- 1.2. The size of the appeal site is 0.35 ha (0.8645 acres) and the shape of the appeal site is irregular. The gradient of the site rises from the public road towards the centre and rear of the site. The subject site is currently overgrown and not in use.
- 1.3. The appeal site is located between two established houses and there is a dense belt of hedgerows to the front of the site adjoining the public roadway.
- 1.4. The existing house adjoining the appeal site to the south-east is single storey in height. The neighbouring site to the south-east is lower than the appeal site. The property adjoining the appeal site to the north-west is a dormer property.

2.0 Proposed Development

- 2.1. Outline planning permission sought for the erection of a dwelling house and vehicular entrance.
- 2.2. It is proposed that the site will be served by public water mains and an on-site waste water treatment system.

3.0 Planning Authority Decision

- 3.1. Cork County Council decided to refuse planning permission for the following reason;

The Planning Authority is not satisfied that the applicant complies with the housing need criteria set down in Policy Objective 4-1 of the 2014 County Development Plan for the metropolitan greenbelt or, the exceptional health circumstances policy objective RCI 4-8. An exceptional rural housing need has not been established nor is the Planning Authority satisfied on the basis of the information submitted that an exceptional health circumstance exists which, requires a dwelling at this rural location. It is the policy of the Planning Authority to Maintain a Green Belt for Metropolitan Cork with the purpose of retaining the open and rural character of

lands between and adjacent to urban areas, maintaining clear distinction between urban and the countryside and to recognise that in order to strengthen existing rural communities provision can be made to meet exceptional individual housing needs within areas where controls on rural housing apply.

Accordingly, the proposed development would materially contravene policy objective RCI 4-1 & RCI 5-2 and would mitigate against the preservation of the rural environment, would lead to demands for the uneconomic provision of public spaces and facilities, would set an undesirable precedent for other such development outside of the development boundary and would be contrary to the proper planning and sustainable development of the area as well as the Sustainable Housing Guidelines, 2005.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

- A recent planning application for a house on the appeal site was a refused permission for non-compliance with rural housing policy (RCI 4-1).
- The applicants submit that they do not comply with policy objective RCI 4-1. However seek permission for a rural house on health grounds.
- The applicant suffers from the medical condition MS.
- The applicant has carried out an extensive search of alternative sites with no success. The subject site offers close proximity to family and medical provision.
- Policy Objective RCI 4-8 facilitates rural housing need on the grounds of medical needs.
- The applicant's have provided medical documentation demonstrating their case.
- It is considered that the case does not adequately demonstrate the applicant's need to live in this particular rural area.

- It is also noted that the applicant's have no family living in the local area.

3.2.2. Area Engineer; - No objections.

3.3. **Third Party Observations**

There is are no third party submissions.

4.0 **Planning History**

- L.A. Ref. 03/997 – Permission **granted** to Thomas Ahern for a dormer style dwelling and biocycle unit.
- L.A. Ref. 02/2925 – Permission **granted** to Thomas Ahern for dormer bungalow and bio-cycle unit.
- L.A. Ref. 96/4615 – Permission **granted** to Thomas Ahern for bungalow.
- L.A. Ref. 14/6767 – Permission **refused** by the Local Authority for the outline permission of a house. The refusal reason stated that the applicant did not meet the rural housing need criteria and was therefore contrary to policy objective RCI 4-1. Following a third party appeal An Bord Pleanala (appeal ref. 244643) refused permission on the basis that the applicant does not come within the scope of the rural housing need and therefore the proposed development would be contrary to Policy Objective RCI 4-1.

5.0 **Policy Context**

5.1. **Development Plan**

The operational development plan is the Cork County Development Plan, 2014 – 2020.

Section 4.4 of the County Development Plan sets out the 'Categories of Rural Generated Housing Need' and the appeal site is located within the Metropolitan Cork Greenbelt.

Policy Objective RCI 4-1 sets out the categories of housing need that are compliant with this area.

The relevant policies in relation to the proposed development include;

Policy RCI 5-1 – Maintain Greenbelt

Policy RCI 5-4 – Exceptions over a period of time will eventually erode the Greenbelt

Policy RCI 6-4 – Occupancy Conditions

Policy RCI 4-8 – Exceptional Health Circumstance

6.0 The Appeal

6.1. The following is the summary of a third party appeal submitted by Elayne & Tom Spillane;

- The Local Authority refusal reason did not have sufficient regard to the applicant's exceptional health circumstances.
- The applicant's acknowledge that they do not comply with the rural housing need criteria in the County Development Plan.
- However for two reasons it is contended that the principle of developing a house in this location is acceptable. This includes compliance with Policy RCI 4-8 Exceptional Health Circumstance and secondly the infill nature of the subject site.

Policy RCI 4-8 Exceptional Health Circumstance

- The planning application included documentation in relation to the applicant's medical condition.
- It is submitted that in neither of the two planner's reports is the term 'exceptional health circumstance' defined.

- It is unknown how the planning authority can determine whether the applicant's health condition is an exceptional health circumstance.
- In contrast there is attached documentation from medical professionals who state that the applicant's health condition is an exceptional health circumstance.
- It is submitted that MS is an exceptional health circumstance on the basis that the condition only affects 8,000 people in Ireland and there are 250 persons in Ireland diagnosed every year.
- The attached letters from the medical professionals recognise the undisputed benefits of a rural location for MS patients. This is particularly highlighted in the submitted letter from Dr. Tadg Grufferty.
- The benefits of the location are noted given the proximity of the subject site to the family support, the applicant's workplace, schools and amenity areas. There is also exercise training at the nearby Fota Estate and Fota Island Resort.
- The benefits for this rural location for the applicant is supported by Patricia Lucey, MS Regional Community Worker.
- It is contended that the rural setting will allow the applicant access to the outdoors and also enable the provision of a natural therapeutic outdoor living space.
- The rural location is supported by Dr. Sean O'Sullivan, the Consultant at Cork University Hospital National Neuroscience Centre. The benefits of the location is also supported by Jo O'Leary, Occupational Therapist.
- The subject rural location provides access which will allow the applicant to retain his independence.
- The Board are requested to conclude that the applicant's medical condition is indeed an exceptional health circumstance.
- The Board are also requested to consider the extensive works carried out by six estate agents in trying to locate a suitable site / house for the applicant.

- The subject site is the sole site that meets the requirements of a quite rural area, proximity to work, family amenities and medical facilities. There are no other sites available.
- The subject site is only situated 5.16km away from the applicant's current family home and the applicant's daughter attends school locally. The applicant's employ 25 employees in a local business in Little Island.
- It is considered that any other site would remove the applicant's from their family and community.
- The applicant's are prepared to accept a Section 47 condition requiring the proposed house to be solely occupied by the applicant.

Infill Site

- It is contended that greenbelt policy RCI 5-2 does not apply to the site.
- The subject site is located within a cluster of ribbon development.
- A dwelling on the appeal site would not have any impact on urban – rural character. Urban development will not be extended by the proposed development.
- Section 4.6.8 of the County Development Plan recognises the role of infill development.
- Having regard to the infill nature of the site it is argued that the development of the subject site does not represent a threat to the integrity of the greenbelt.

Other Planning Issues

- The subject site is located within close proximity to community facilities, family support, amenity areas, schools and work place.
- There are no objections from neighbours.
- The sight lines are accepted by the Area Engineer.
- The waste water treatment system is accepted by the Local Authority.

- The site is not located within a Flood Risk Area.
- There are no environmental or cultural heritage designations affecting the site.
- The infill nature of the site will reduce the visual impact of the proposed development.
- The previous refusal reason did not relate to the applicant's exceptional health circumstances.

6.2. **Planning Authority Response**

None

6.3. **Observations**

There is an observation from Kevin O'Keffee, TD, who requests that he is kept informed on any decision.

7.0 **Assessment**

- Principle of Development
- Access
- Appropriate Assessment

7.1. Principle of Development

A key consideration in this appeal relates to the applicant's rural housing need in the area and as such whether this housing need complies with the provisions of the Cork County Development Plan, 2014 – 2020, and the Sustainable Rural Housing Guidelines, 2005.

The Board will note that the applicant confirms that they would not meet the rural housing need criteria in accordance with the provisions of the Cork County Development Plan, 2014 – 2020. However the applicant submits that they would

qualify for a rural house having regard to Policy Objective RCI 4-8 of the County Development Plan. Policy Objective RCI 4-8 essentially states that persons who have 'Exceptional Health Circumstances' which requires them to live in a particular environment or close to family support will be facilitated a house in a rural area. This policy objective is consistent with the Rural Housing Guidelines, 2005.

I have reviewed the documentation that accompanied the planning application and I would note that in general there is consensus that the applicant, given his MS medical condition, should live in a ground floor property with easy access to bedroom and toilet. The applicant currently lives in a two-storey semi-detached house which is considered unsuitable. The documentation supporting the planning application strongly recommends that a bedroom and toilet provision should be located downstairs in any new house construction. In addition a letter from an Occupational Therapist, dated 28th August 2016, recommends specifications for a new house construction and these specifications, in my view, sets a template for a house type that would serve the applicant's medical needs.

The appeal submission is accompanied by a letter from Dr. Tagh Grufferty, who is the applicant's GP. The GP submits that the location of the subject site will provide the applicant's preferred rural environment. It is submitted that an outdoor garden facility in a rural environment will benefit the applicant's mental wellbeing. It is claimed that the rural setting will be a conducive environment to better sleep, greater calm and less stress. The proposed site offers proximity to family support, schools and workplace and also is within easy reach of Cork University Hospital. In a letter of support by MS Ireland it is stated that the strategically located site would facilitate the known health benefits of living in an open green environment. The appeal submission is also supported by a letter from the applicant's Occupational Therapist which states that the applicant's current house is unsuitable and there is a limited availability of suitable accommodation in the local area. It is contended that a dwelling in this rural setting will greatly assist the applicant's chronic fatigue. The subject rural location

would also provide ease of access to local facilities and amenities. The subject location would also provide a house in close proximity to the applicant's family home.

I would consider, having reviewed the file documentation, that there is no dispute that the applicant has a medical condition which requires accessible living conditions and ideally all living should be located on the ground floor. The applicant's current house is a two-storey semi-detached dwelling and therefore is unsuitable for his current and future medical needs. I also note that the correspondence from the medical professionals also recommend that a garden space would provide benefits in terms of mental wellbeing and a rural setting would also add to this benefit. I would acknowledge that the subject site offers a location that will serve the applicant's needs in terms of proximity to family, workplace and schools and I also acknowledge the benefits of a quieter rural setting for the applicant given his medical condition.

I would note paragraph 4.3 of the Rural Housing Guidelines, 2005, which states '*that exceptional health circumstances may require a person to live in a particular environment or close to family support*'. I would note the report from the Local Authority Senior Executive Planner in which it is stated that the applicant's family are living in the settlement of Carrigtwohill. I acknowledge that the applicant's have been searching for a suitable house / site for some time however I would conclude that the site in question does not offer any specific environmental reason relative to another rural site that the applicant should reside in this rural area and I would consider that a site closer to family support would have a stronger case in relation to Policy Objective RCI 4-8.

Therefore it is my view, based on the available information that the applicant would not have an exceptional health circumstance requiring them to live in this rural area rather than a village / urban environment closer to the settlement of Carrigtwohill.

Separately I note that the applicant has not submitted any details to demonstrate that they are in compliance with the Cork County Council's Rural Housing Policy. I would note that Figure 4.1 of the Cork County Development Plan, 2014 – 2020, sets out the rural area types and the appeal site is located in the area designated 'Metropolitan Cork Greenbelt'. Section 4.4.3 of the Cork County Development Plan, 2014 – 2020, sets out the criteria required to be met in order to be considered eligible for a one off rural house in the 'Metropolitan Cork Greenbelt'.

I would concur with the local authority concerns and I would conclude, based on the information on the file that the proposed development would be contrary to Policy Objective RCI 4-1 of the Cork County Development Plan, 2014 – 2020. Therefore I would not consider that the applicant would comply with the rural housing need policies and provisions of the Cork County Development, 2014 – 2020, and as such I would recommend a refusal to the Board on the basis that the applicant fails to comply with the local rural housing need provisions.

7.2. Access

In the previous appeal (appeal ref. 244643) the Board will note that the Planning Inspector recommended a refusal reason in relation to inadequate sightline provision for the proposed vehicular entrance. However the Board considered that this was a new issue and decided not to pursue this issue in light of the substantive reason for refusal.

I would note from a visual observation of the area that the existing sightline provision from the front of the appeal site to the north-west is difficult due to an acute bend on the public road and the existing sightlines to the south-east are generally good but restricted due to overgrown hedgerows.

The Area Engineer, in his report dated 19th September 2016, considers that site distance at the proposed site is good. I would acknowledge that there are

established vehicular entrances along the public road adjacent to the appeal site. I also would accept that having regard to the class of public road that the volumes of traffic would be low. Furthermore traffic speeds would be low coming from the north-west given the sharp bend on the public road. I would note the submitted site layout drawing outlines the proposed sightlines. The sightline provision in a western direction would require hedge cutting / removal on third party lands and these details would need to be finalised before a grant of permission can be considered.

Overall I would be concerned with the sightline provision in a north-western direction. However having regard to the planning history on this site, in particular the Board Direction in appeal ref. 244643, I would not consider this a substantive issue. I would therefore not recommend to the Board that this issue is pursued.

7.3. Appropriate Assessment

I would note from the NPWS website (www.npws.ie) that the nearest Natura 2000 designated sites are as follows;

- Cork Harbour SPA 004030, site code 004030
- Great Island Channel SAC, site code 001058

I would note that both sites are located a short distance to the appeal site, i.e. approximately 300 – 350 metres to the south east of the appeal site. The qualifying interests for the Great Island Channel SAC include Mudflats, Sandflats and Atlantic Salt Meadows. I would also note that the qualifying interests associated with the Cork Harbour SPA. However I would consider that the scale of the proposed development would be minor and also having regard to the separation distance from the proposed development to the Natura 2000 sites.

It is intended that the proposed house will be connected to public water mains and an on-site waste water treatment system. Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely

effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Sites listed above, in view of the sites conservation objectives and a stage 2 AA is not required.

8.0 Recommendation

- 8.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be refused for the reason set out below.

9.0 Reasons and Considerations

1. The proposed development would constitute random residential development in a rural area which is under strong development pressure, and which is lacking in certain public services. It is the policy of the planning authority, as expressed in the current Cork County Development Plan, 2014 – 2020, to focus rural housing developments to certain categories of applicants. The appeal site is in area designated 'Metropolitan Cork Greenbelt' and it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan or the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005 or comply with Policy Objective RCI 4-8 of the County Development Plan. The proposed development would be contrary to Policy RCI 4-1 of the Cork County Development Plan, 2014 - 2020, would lead to demands for the uneconomic provision of further public services and facilities in an area where these are

not proposed and would, therefore, be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector

28th February 2017