



An  
Bord  
Pleanála

## Inspector's Report PL.88.247618

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<b>Development</b>	Partially demolish outbuilding and change of use of remainder to domestic dwelling.
<b>Location</b>	Kilnahera West, Drimoleague, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/425
<b>Applicant(s)</b>	Donal Collins
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	As Above
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> February 2017
<b>Inspector</b>	Kenneth Moloney

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## 1.0 Site Location and Description

- 1.1. The subject site is located in a rural area approximately 4km east of Drimoleague and the local area is characterised by rolling agricultural land.
- 1.2. The site is situated off a narrow lane which takes its access from a regional road (R586).
- 1.3. The overall size of the appeal site is approximately 0.31 ha (0.7657 acres) and the shape of the appeal site is irregular and the appeal site is located within an active farm.
- 1.4. The subject building on the appeal site is currently used as a livestock shed.
- 1.5. There is also an existing two-storey house and a two-storey residential studio located within close proximity to the cattle shed, but outside the redline boundary of the application.

## 2.0 Proposed Development

- 2.1. Planning permission is sought to partially demolish outbuilding and for permission for change of use of remainder of the outbuilding to domestic dwelling house. The proposed development is effectively a barn conversion to a residential dwelling.
- 2.2. The floor area of the proposed house will comprise of living, dining, kitchen and 3 no. bedrooms. The overall floor area of the proposed housing unit is approximately 143 sq. metres.
- 2.3. The proposed house will be finished in smooth plaster and timber cladding. The roof will be finished in grey cladding.
- 2.4. It is proposed that the site will be served by a private well and an on-site waste water treatment system.
- 2.5. Additional information sought in relation to (a) comprehensive completion of the supplementary application form, (b) clarify details of the existing dwelling, (c) submit full details of planning history, (d) clarification of the property identified as 'ancillary to main dwelling house', (e) adequate sightline provision, and (f) cross section to comply with section 3.4 of the site characterisation form.

### **3.0 Planning Authority Decision**

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

The proposed development is located in a 'Transitional Rural Area' as set out in the Cork County Development Plan, 2014. This policy objective RCI 4-3 seeks to allow a dwelling house only when there is a genuine housing need and when specific criteria has been fulfilled including 'a first home for their permanent occupation on the family farm'. The applicant already has the benefit of a permission granted on these lands for a dwelling house (Ref. 98/2144) that remains under the applicants control on lands edged blue and also has an existing traditional two-storey dwelling house that does not form part of the 'development' under consideration and where demolition of that dwelling house has not been proposed and thus cannot be treated as a 'replacement dwelling'. The development would generate an intensification of vehicular movements along a track to the R-586 Regional Road and would result in the formation of a further second dwelling house without any substantiated local housing need. The development does not come within the scope of the rural generated housing need criteria applicable to the site and as such the proposed development does not constitute an 'exception' to the restriction on new dwellings. The proposed development would therefore contravene materially a stated objective as set down in the Cork County Development Plan 2014 and 'Sustainable Rural Housing Guidelines for Planning Authorities' as published by the Department of the Environment, Heritage and Local Government in April 2005, and would therefore be contrary to the proper planning and sustainable development of the area.

#### **3.2. Planning Authority Reports**

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

- The planning application is considered unusual as it relates to a change of use from functional agricultural building to house.
- No visual impact anticipated.

- The location of the applicant's existing home is unknown.
- The SFI housing form is not completed.
- The planning history for the site is complex.
- No AA issues arise.
- Area Engineer seeks additional information.

3.2.2. Area Engineer; - Additional information sought in relation to (a) adequate sightline provision, and (b) a scaled cross section drawing as per the site characterisation form.

### 3.3. **Third Party Observations**

There are no third party submissions.

## 4.0 **Planning History**

- There is no planning history on the subject site.

### Neighbouring Sites

- L.A. Ref. 07/1249 – Permission **refused** for a dwelling house on lands situated to the north-west. The applicant was Josephine Collins.
- L.A. Ref. 04/8570 – Permission **refused** for a dwelling house on lands situated to the north-west. The applicant was John O'Donovan.
- L.A. Ref. 98/2144 – Permission **granted** to Donal Collins for a house.

## 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 'Traditional Rural Area'. Paragraph 4.3.9 sets out advise in relation to traditional rural areas.

Policy Objective RCI 4-5 sets out the categories of housing need that are compliant with this area.

## **6.0 National Guidelines**

### **6.1 Sustainable Rural Housing Guidelines**

The subject site is located within a 'Stronger Rural Area' as identified in Map 1: Indicative Outline of the NSS rural areas types in the DOEHLG Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that "in these areas the population is generally stable within well-developed town and village structure and in wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain area".

## **7.0 The Appeal**

7.1. The following is the summary of a third party appeal submitted by Donal Collins;

- The planner's assertion that the applicant has control over the house formally owned by the applicant's mother is incorrect.
- The applicant is the executor of the estate only and the solicitor is dealing with probate. This can be confirmed by the solicitor.
- The assertion that the proposed development will result in additional traffic is also inaccurate.
- Traffic has been reduced considerably as the house formerly owned by the applicant's mother is unoccupied.

- It is contended that the suggestion that the existing farmhouse is demolished as a pre-condition of granting permission is completely unwarranted and outside the remit of the Council.
- The farmhouse has been in the family ownership for four generations and under no circumstances will the applicants agree to its demolition.
- The farmhouse is located approximately 30 metres away from the proposed development and its removal is unwarranted.
- It is intended that this farmhouse will be renovated for the use of the applicant's children.
- The proposed development does not include any new structures.
- The proposed development is located in a remote area and is completely screened.

## 7.2. Planning Authority Response

The following is the summary of a response submitted by the Planning Authority;

- A primary objective RCI 4-3 which requires a rural housing need also makes specific reference to a first house and not a second or third house.
- The appellant is not just a retired farmer but a builder, farmer and landlord.
- The applicant has already been granted planning permission under reference L.A. Ref. 98/2144.
- It is submitted that the occupation of the dwelling permitted under 98/2144 will at some point resume and any further dwelling will result in increased vehicular activity. This will have implications for the R-586 which is a fast-moving regional road.
- It is submitted that sightlines of 160 metres in either direction from a setback distance of 3 metres cannot be achieved as the applicant does not have control over the adjoining lands.
- It is submitted that the applicant has submitted contradictory statements in relation to the future use of the existing farmhouse.

- It is submitted that should the traditional farmhouse be used by one of the applicant's children then it could easily be used by the applicant himself.
- Objective RCI 8-1 and RCI 2-2 of the County Development Plan, 2014, allows for a replacement dwelling. However, the applicant does not wish to avail of Objective RCI 8-1. The applicant wants a third dwelling on his landholding and a second permission for a new dwelling house given the previous permission (98/2144).
- It is submitted that a previous permission, i.e. 04/8570, was sold off from this landholding. In relation to this permission the applicant was John O'Donovan and the landowner was Donal Collins.

### 7.3. **Observations**

None.

### 8.0 **Assessment**

- Principle of Development
- Design / Visual Impact
- Access
- Appropriate Assessment

Firstly, however the Board will note that, the Planning Authority's reason for refusal stated that the proposal would "materially contravene" a policy objective as set out in the Cork County Development Plan, 2014 – 2020. Although the Board is constrained by Section 37(2) of the Planning and Development Act, 2000 (as amended), the proposed development is not, in my view, a material contravention of the Cork County Development Plan, 2014 – 2020, and the approval of the proposal, should the Board be so minded, is not of a significance which undermines the provisions or relevant objectives of the local area plan.



## 8.1. Principle of Development

A key consideration in this appeal, as is the case with all rural housing applications, 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.

I would acknowledge 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 'Traditional Rural Area'. 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 areas designated 'Traditional Rural Area'.

The applicant's occupation is stated as a farmer, builder and landlord and the applicant has lived at this current address since in 1971. The information submitted with the additional information response states that the applicant is currently living in a house on the farm with his wife and their three children. The purpose of the proposed house is to provide a house that meets current insulation standards as the applicant's present house, which is a traditional farm house, was built in the late nineteenth century. The applicant submits that the traditional farm house is poorly insulated and due to its aspect receives little sunlight or daylight and is generally cold. Furthermore, the current house has no damp proof membrane in the walls and floors and suffers from rising damp. The applicant therefore would prefer to build a new house to meet modern standards for his family. In principle and given the applicant's local background and connection to the farm I would consider there are generally no concerns in relation to the applicant's intension.

However, the rural housing need as set out in paragraph 4.4.2 of the Cork County Development Plan, 2014 – 2020, allows applicants who meet the criteria identified in RCI 4-5 to build a first home for their permanent occupation. Therefore, a difficulty

arises as it is evident from the information submitted as part of the planning application that the applicant owns several residential properties.

The applicant owns several rental properties located in Drimoleague and I would not consider that this would impact on the applicant's rural housing need as the applicant's stated occupation is a part-time farmer and would need to be close to the land. However, should the applicant receive permission for the proposed house then he would own three residential properties within a 40 metre radius. These include a traditional farmhouse where the applicant currently lives. Secondly there is a residential property identified as 'ancillary to main dwelling house' on the submitted site layout plan. I noted from my site inspection that the property identified as 'ancillary to main dwelling house' is an independent residential unit and was occupied. The cattle shed, the subject of the current appeal, is located to the south-west of these two aforementioned properties.

As such I would consider that the applicant has not adequately demonstrated that he has a genuine local housing need for an additional property in this rural area. 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 4-5 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.

## 8.2. Design / Visual Impact

The Cork County Development Plan, 2014 – 2020, includes landscape designations such as 'Scenic Routes' and 'High Value Landscapes'. I have reviewed the County Development Plan maps and neither of these designations would apply to the appeal site or the immediate vicinity of the appeal site.

The use of an existing agricultural building to accommodate a residential house would allow for an almost seamless integration of the proposed development into the receiving landscape. In addition, I noted that the appeal site is not visible from the regional road (R586) due to the topography of the landscape. Overall I would conclude that the proposed development would not unduly impact on visual amenities in the local area or the established landscape.

### 8.3. Access

In relation to access the appeal site is served by a track or laneway which connects the existing farm buildings to the regional road. As it stands the proposed development would result in an intensification of local traffic and therefore creating additional movements onto the regional road.

The Area Engineer, in his report, requires a sightline provision onto the regional road of 160m in either direction from a set back distance of 3m from the public road edge. The applicant has confirmed with the Area Engineer that they intend to comply with this requirement, however this has not been demonstrated in plan form as it will require maintenance of hedgerows on third party lands.

Overall I would consider that the access issue has not been adequately addressed. However, having regard to the substantive issue outlined above I would not recommend that the Board pursue this issue as I would consider this issue a new issue.

### 8.4. Appropriate Assessment

I would note from the NPWS website ([www.npws.ie](http://www.npws.ie)) that the nearest Natura 2000 designated site is as follows;

- River Bandon SAC (Site Code 002171)

The River Bandon SAC is situated east of Dunmanway and therefore is in excess of 10km from the appeal site. It is intended that the proposed house will be connected to a private well 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. Therefore, 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.

## **9.0 Recommendation**

- 9.1. 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.

## **10.0 Reasons and Considerations**

1. The proposed development would constitute random residential development in a rural area which is under 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 and to restrict the number of houses in these rural areas to single house for each applicant. The applicant owns two existing residential properties within a 40 metre radius of the proposed house and therefore the applicant does not come within the scope of the rural 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. The proposed development would be contrary to Policy RCI 4-5 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.

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Kenneth Moloney  
Planning Inspector

03<sup>rd</sup> March 2017