



An
Bord
Pleanála

Inspector's Report PL.04.247798

Development	House, garage and all associated site works.
Location	Scart, Ballinhassig, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/6486
Applicant(s)	Declan and Martina Healy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Liam Kingston
Observer(s)	None
Date of Site Inspection	9 th March 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area and is situated approximately between Ballinhassig and Inishannon and the local area is characterised by rolling agricultural land.
- 1.2. The size of the subject site is approximately 0.26 ha (0.642 acres) and the shape of the site is approximately rectangular. The site is currently used for agricultural purposes.
- 1.3. The gradient of the site although higher than the public road is generally flat.
- 1.4. There are single storey houses located either side of the appeal site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a storey and half dwelling.
- 2.2. The total floor area of the proposed house is 228 sq. metres and the floor plan comprises of living areas and a single bedroom at ground floor level and 4 no. bedrooms at first floor level.
- 2.3. The maximum height of the proposed house is approximately 7.9 metres above ground level.
- 2.4. The front elevation of the proposed house will be finished in smooth render and the roof will be finished in black slate.
- 2.5. The proposed development also includes a single storey garage which has a floor area of approximately 57 sq. metres.
- 2.6. The proposed development will be served by a private well and an on-site treatment system.

3.0 Planning Authority Decision

3.1. Cork County Council decided to grant planning permission subject to 11 no. conditions which are standard for the nature of development.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's and the SEO's reports are as follows;

Executive Planner

- Current application is identical to previous application.
- There is a very strong objection to the proposed development.
- It is considered that exceptional circumstances may exist.
- However, applicant's do not comply with the eligibility criteria in the County Development Plan.
- Refusal recommended.

Senior Executive Officer

- The Area Engineer raises no objections.
- It is considered that the applicants have a rural generated housing need and can be regarded as an exception to the settlement policy restrictions.
- Permission recommended.
- A residency / occupancy condition should be included.

3.2.2. Area Engineer; - No objections subject to conditions.

3.3. Third Party Observations

There is one third party submission and the issues have been noted and considered.

4.0 Planning History

- L.A. Ref. 16/5359 – Permission **refused** for a dwelling house as applicants have not adequately demonstrated that they comply with RCI 4-2(d) as they

are not building a first home and as such would fail to comply with this policy objective.

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 area designated ‘Rural Area under Strong Urban Influence’.

Policy Objective RCI 4-2 sets out the categories of housing need that are compliant with this area.

Section 4.6 sets out ‘General Planning Considerations’ and this includes objectives in relation to;

- Design
- Servicing of individual houses
- Ribbon Development
- Occupancy Conditions

Chapter 13 relates to Green Infrastructure and Environment and sets out policies in relation to landscape.

6.0 National Guidelines

6.1. Sustainable Rural Housing Guidelines

The subject site is located within an ‘Area under Strong Urban Influence’ 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 objective should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

7.0 The Appeal

7.1. The following is the summary of a third party appeal submitted by Liam Kingston;

- There was a previous application on the appeal site which Cork County Council refused permission.
- The proposed house is out of character with the local area as all other houses are bungalows whereas the proposed house is a storey and half in height.
- The proposed development is contrary to the proper planning and sustainable development of the area.
- The applicants are not first time buyers as they have previously built their first home 5.5km away.
- The applicants are not building in their local rural area.
- The applicants do not have a local rural need.

7.2. Applicant's Response

The following is the summary of a response submitted by the applicant;

- The house is not out of character with the local area and this is accepted by the Area Planner.
- The proposed house is carefully designed in accordance with the Cork Rural Design Guide.
- It is submitted that as there was only one objection to the proposed development that it is clear that none of the other residents in the local area are opposed to the proposed development.

- It is contended that the applicant has a rural housing need and would qualify for an exemption under exceptional circumstances.
- The applicant submits that he has lived all his life in the local area of Ballinhassig Parish and attended primary school locally and has been strongly involved with the local GAA club.
- It is submitted that the applicant's father died in 1999 and since then there has been a family feud between the applicant's siblings regarding landownership.
- The applicant and wife built a house in his father's land and moved into this house in 2009.
- However due to a continuing family feud and the associated tensions the applicant and his family sold their home in 2014 relocated to rented accommodation in Douglas.
- However, the applicant and his family wish to relocate to Scart, Ballinhassig to set down roots.
- It is acknowledged that the Area Planner considers that 'exceptional circumstances' may be applied to this application.
- The applicant considers that he may qualify for a housing need and comply with Section RCI 4-2(d) Cork County Development Plan.

7.3. **Observations**

None.

8.0 **Assessment**

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

8.1. Principle of Development

A key consideration in this appeal relates to the applicant's rural housing need in this local 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 note from the supplementary planning application form which accompanied the planning application that the primary applicant is a local rural person who lived in Ballyleigh, Waterfall between 1978 – 2014. Ballyleigh is located approximately 5-6 km north of the appeal site. The applicant has lived all his life in the local area and has attended school locally and has sporting connections to this local rural area. The applicant received planning permission in 2006 to build a house on his father's land in Ballyleigh and moved into his new house in 2009. However, the applicant and his wife sold their house in 2014 and are currently living in rented accommodation in Douglas, Cork. The applicant and his wife are both employed as Garda and the applicant is stationed in Carrigaline and his wife is stationed in Cork City.

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 'Rural Area under Strong Urban Influence'. 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 'Rural Area under Strong Urban Influence'. The local need criterion includes the following;

- *Farmers, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm.*

This is not the case.

- *Persons taking over the ownership and running of a farm on a full-time basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.*

This is not the case.

- *Other persons working full-time in farming, forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.*

This is not the case.

- *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.*

This is clearly the case as confirmed in the submitted supplementary planning application. Notwithstanding the applicant's claims there is no documentary evidence such as school records or utility bills with the applicant's address details however I would note that the applicant's local connections to this rural area are not contested by the Local Authority.

- *Returning emigrants who 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, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son,*

daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.

This is not the case.

On the basis of the rural area type where the appeal site is located, i.e. Rural Area under Strong Urban Influence, and the basis of the applicant's submitted application I would conclude that the applicant would have a genuine rural housing need in this location, albeit the applicant's home place is located approximately 5–6km to the north, as the crow flies, of the appeal site.

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 4-2 to build a first home for their permanent occupation. Therefore, a difficulty arises as the applicant has previously built a house in this local rural area on foot of a planning permission received in 2006.

As such I would consider that the applicant would not comply with the local housing need criteria. The County Development Plan allows for an exemption to the rural housing criteria however this specifically relates to health circumstances in accordance with RCI 4-8 'Exceptional Health Circumstance' 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 Policy RCI 4-2(d) of the Cork County Development Plan.

8.2. Design / Visual Impact

The Cork County Development Plan, 2014 – 2020, includes landscape designations such as 'Scenic Routes' and 'High Value Landscapes', which allows for the protection of views and the landscape. 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.

I acknowledge the concerns from the appellant that the proposed house design is out of character with the area as both established houses adjoining the appeal site are single storey and that the proposed house is one-and-half storey in height. Although I would accept this observation I would note that an existing house located to the south-west of the appeal site is one-and-half storey in height and consistent with the design character of the proposed development. Overall and having regard to the absence of any landscape designations in the local area I would not consider that the proposed development would unduly impact on the character or the visual amenities of the local area.

8.3. Access

In relation to access it is proposed to locate the vehicular access at the southern end of the appeal site. I noted from a visual observation of the area that the sightline provisions are generally good in both directions from the proposed entrance. There is a bend on the road to the north of the proposed vehicular entrance however this is located approximately 90 - 100 metres from the proposed vehicular entrance.

The Area Engineer, in his report, requires a sightline provision onto the local road of 70m in either direction from a setback distance of 2.4m from the public road edge. The proposed development provides an 80m sightline provision in either direction.

Overall I would consider that the access issue has been adequately addressed and the proposed development would not result in a traffic hazard.

8.4. Appropriate Assessment

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

- Courtmacsherry SAC (Site Code 001230)
- Courtmacsherry SPA (Site Code 004219)
- Sovereign Islands SPA (Site Code 004142)

The above designated sites are all located in excess of 10km from the proposed development site which is a significant distance.

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 who previously received planning permission for a house in the local area in 2006 would therefore 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 4-2 (d) 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

10th March 2017