



An
Bord
Pleanála

Inspector's Report PL04.247951.

Development	Dwelling house, domestic garage and a domestic wastewater treatment system.
Location	Knockmullane, Innishannon, Co Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	16/06333.
Applicant	John and Catherine McCarthy.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party versus decision.
Appellant	Brendan and Margaret Brady.
Observer(s)	None.
Date of Site Inspection	18 April 2017.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural location in the townland of Knockmullane, Co Cork. Knockmullane is about 2.6 kilometres east of Innishannon and approximately 21 kilometres south west of Cork city centre.
- 1.2. The site is situated along a minor country road which passes through a farmstead. There are 4 dwellings along this narrow country road which is 1.2 kilometres in length and loops back onto the county road to the north. The site is located at the top of a hill which forms part of the valley and the wider area slopes southwards down to the course of the river. An existing two storey dwelling is located to the south of the appeal site. The appeal site comprises a portion of a large agricultural field in grass. The roadside boundary of the site comprises a ditch and bank with a mature hedgerow to the back of the road. The southern boundary to the adjacent dwelling comprises a post and wire fence with a portion of planted griselinia hedge. The remaining boundaries of the site are undefined.
- 1.3. The landscape is gently undulating in the vicinity with the predominant character comprising very large agricultural fields, mainly in grass with post and wire fences. The immediate area slopes downwards to a river valley to the south and affords prominent and open views to the west.

2.0 Proposed Development

- 2.1. The applicant proposes to construct a single storey dwelling and domestic garage, serviced by a septic tank and percolation area with water supplied by a domestic well. The dwelling has a stated floor area of 286.9 sq.m. and a domestic garage of 50.36 sq.m. The overall site is 0.96 Hectares.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission, subject to 11 conditions, relevant conditions are summarised as follows:

- Condition 3 refers to the first occupants of the dwelling.

- Conditions 5, 6, 8 and 9 refer to the position of soakaways, the installation of the septic tank and percolation area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planners Report can be summarised as follows:

- The need for Appropriate Assessment was screened out.
- An assessment was made in order to ascertain the applicant's compliance with the rural housing policy of the Council. The applicants obtained planning permission for a house (08/7813), built it and now live there. The applicant cannot meet the rural housing criteria because this will be their second house. Initial recommendation is to refuse permission.
- An addendum Planning Report prepared by the Senior Executive Planner disagrees with the Area Planner's report and states that the applicant meets the exceptional medical needs requirements for a rural dwelling. Subsequent to the report of the Area Engineer further information was requested in relation to sight lines and site specific details of the wastewater treatment system layout.

The final Planner's Report notes the submission of further information as acceptable and recommends a grant of permission.

3.2.2. Other Technical Reports

Engineering Report – though a minor road, there is a requirement to provide sight distance in both directions. Concerns are raised in relation to the percolation area which shows pipes running perpendicular to the contours. Additional information is requested. Further information submitted was considered acceptable, subject to standard conditions.

Liaison Officer Report – no objections are raised subject to usual planning and engineering conditions

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A submission was received by the planning authority. The issues raised are broadly the same as those raised in the grounds of appeal.

4.0 Planning History

Adjacent to the appeal site:

PA reference number: 08/7813. Permission for a dwelling house. October 2008.

This is the adjacent house to the appeal site and currently occupied by the applicants.

5.0 Policy Context

5.1. Development Plan

The Cork County Development Plan, 2014 is the relevant planning policy document. The appeal site is located in an area of Co. Cork which has been identified as being a Rural Area under Strong Urban Influence. The landscape is characterised as Broad Fertile Lowland Valleys 6a.

The following policy objectives are considered applicable:

- **Objective RCI 4-2:** Rural Area under Strong Urban Influence:

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:

- a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.
- b) Persons taking over the ownership and running of a farm on a fulltime 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.
- c) Other persons working fulltime 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.
- 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.
- e) 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.

- **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.

This objective applies to all rural housing policy area types.

Section 4.4.3 of the CDP states that the objectives in the *Categories of Rural Generated Housing Need* will be assessed in parallel with all other policies and

objectives in the plan, in particular, Section 4.6 relating to General Planning Considerations for rural housing.

- The subject site is located within the Greater Cork Ring Strategic Planning Area (GCRSPA). In terms of CDP objectives for the area – **Objective CS 4-2 I**) states:
Strengthen and protect the rural communities of the area by encouraging sustainable growth in population, protecting agricultural infrastructure and productivity so that agriculture remains the principal rural land use and focusing other employment development in the main towns and key villages;
- The County Development Plan identifies the area, in terms of Landscape Character Type, as being Broad Fertile Lowland Valleys, Type 6a. This landscape is identified as having a high landscape value and high sensitivity with a county 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.

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.

Cork Rural Design Guide: Building a New House in the Countryside. Cork County Council 2010.

National Guidance

Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses - Environmental Protection Agency 2010.

Sustainable Rural Housing Guidelines for Planning Authorities - Department of the Environment, Heritage and Local Government 2005.

5.2. Natural Heritage Designations

Courtmacsherry Estuary SAC (site code 001230) is located 11.5 kilometres to the south of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

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

- The appellant raise concerns with regard to the laneway (L32001) which connects to the L3200, it is narrow and presents dangers to pedestrians and vehicles. The increase in traffic will further endanger traffic, there have already been collisions and near collisions.
- The previous application for permission (08/7813) by the applicants was mismanaged by the planning authority who failed to notify the appellant of their decision, thus excluding their right to appeal. The issue of traffic would have been a key issue.
- The applicants have failed to comply with conditions of the previous grant of permission, particularly condition 10 (sight distances).
- The appellant disagrees with a number of comments made by the Area Engineer with respect to the nature and usage of the road. The appellant states that the road serves three farms and four dwellings and is in use daily.

The road is not a cul-de-sac. The Area Engineer's view on road speeds as being comparatively low may be related to budgetary concerns. The Area Engineer's comments in relation to set back and highlighting hazard is confusing. The appellant is willing to assist in relation to boundary setbacks, but only in a sequenced and mutually agreeable way.

- The appellant requests that conditions that relate to permission 08/7813 be complied with and that the current application be suspended for a year and a new application lodged.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

6.4. **Applicant's Response**

The response to the grounds of appeal were prepared by Steven Barry of CEA Architects on behalf of their applicant and can be summarised as follows:

- The L32001 (access laneway) can adequately serve four dwellings. There are bends on the road, but in the vicinity of the applicant's dwelling, works will negate any traffic impacts.
- The applicant disputes the ownership of the dwelling at the first bend in the L32001, it is not in the applicant's ownership and claims of collision or otherwise cannot be refuted or substantiated.
- A complaint regarding a previous application has no bearing on the current proposal.
- The building finishes have been complied with and any enforcement procedures cannot be pursued as seven years have elapsed.
- The Area Engineer's report is diligently written and not inconsistent.

In a supporting correspondence, the applicant sets out the medical requirements of their daughter in relation to the need to build a new single storey dwelling and requests a speedy and positive decision.

7.0 Assessment

7.1. I should advise the Board that while the issue of rural housing policy was not raised in the grounds of appeal, I consider that it requires assessment. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Rural Housing Policy
- Landscape
- Traffic
- Other Issues
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The applicant currently resides in the dwelling built adjacent to the appeal site. The house was constructed on foot of a recent permission, planning authority ref: 08/7813 refers, and an occupancy condition was attached in order to meet the housing needs of the landowner's family in the area. The applicant's circumstances have changed and now they wish to construct a single storey dwelling to meet the health needs of their daughter. A letter from a medical practitioner supports any measures that would assist with reduced energy expenditure and lessen cardiac risk. To this end, the applicant proposes to construct a single storey dwelling, without internal stairs and designed with future care needs in mind.

7.2.2. In accordance with the guidance provided by the Sustainable Rural Housing Guidelines for Planning Authorities, the Cork County Development Plan sets out an objective with regards to exceptional health circumstances, objective RCI 4-8 refers. It is based on compliance with this objective that the planning authority granted permission, despite the applicant failing to meet any of the requirements which would constitute a genuine rural generated housing need under objective RCI 4-2: Rural

Area under Strong Urban Influence. This is not the applicant's first home and, therefore, they cannot comply with paragraphs a), b), c), d) or e) of objective RCI 4-2 of the plan.

7.2.3. The Board should note that the applicant currently resides in a modern two storey dwelling adjacent to the appeal site. I have examined the architectural plans of this dwelling and note that it provides a variety of downstairs accommodation, including; a bathroom, a double bedroom, kitchen, living and dining rooms. The constructed dwelling also has an outside patio which is south west facing. Having regard to the information provided on exceptional health circumstances, in my mind, there is scope to adapt the existing modern dwelling either through conversion within the built envelope or through single storey additions. I have seen no information to suggest that the applicants have explored amendments to the existing house or any reasoned explanation as to why the existing house is not suitable. Objective RCI 4-8 seeks to facilitate housing needs for persons considered to have exceptional health circumstances to live in a rural area. It is clear that the applicant already lives in the rural area and has no need for an additional house in the context of objective RCI 4-8 of the current County Development Plan.

7.2.4. In addition, Section 4.4.3 of the County Development Plan states that the objectives in the Categories of Rural Generated Housing Need will be assessed in parallel with all other policies and objectives in the plan, in particular, Section 4.6 relating to General Planning Considerations for rural housing. Specifically, the Plan states that regardless of the personal circumstances of the applicant or whether they qualify under specific social and economic criteria, proposals have to be tested against a range of site specific planning and sustainable development criteria. Therefore, I consider it relevant to assess the proposed development with regard to other planning matters.

7.3. **Landscape**

7.3.1. The appellant has raised issues with regard to the existing dwelling and the lack of compliance with the conditions attached to a permission. It is not the role of the Board to investigate non-compliance with conditions of permissions. However, the issue of the impact of the proposed dwelling on the landscape has a connection with the failure of the existing development to satisfactorily integrate with the landscape.

This is partly as a result of the bulk and scale of the existing two storey dwelling but it also results from a lack of natural landscape screening which was required by condition 5 of the permission. The issue of the landscape impact of the proposed dwelling, therefore requires assessment.

7.3.2. The appeal site is located in a landscape which has a high value and a high sensitivity to development. I note that the existing dwelling is readily visible from the public road, a kilometre to the west. This results from the dwelling's prominent location on the sloping hillside of the valley. The addition of a new dwelling will compound this issue and further erode the landscape quality of the area. Though the proposed dwelling is single storey it will be positioned further westwards on the site, resulting in greater exposure to view. The site will also require significant amounts of cut and fill. All of these factors would conflict with the advice provided by Cork County Council in the *Cork Rural Design Guide: Building a New House in the Countryside*. Given the topography of the site and the elevated positioning of the proposed development, I consider that an additional dwelling at this prominent location would erode the quality of the landscape.

7.4. **Traffic**

7.4.1. The appellant's primary concern is with regard to the additional traffic that the proposed dwelling will generate. The increase in traffic would result in an increased risk to other road users, particularly pedestrians. There is concern too, in relation to the previous permission 08/7813 and the failure to fully implement conditions with regards to the site entrance. The appellant disagrees with the Council's Area Engineer in relation to the nature of the road.

7.4.2. The appeal site is served by a narrow rural road which follows a looped route off the county road which links the N71 with the R607. The rural road serves four dwellings and a large farm. The road passes through the farmyard; after which it comprises a gravel surface. I note the Council's Area Engineer's comments in relation to the existing road and a lack of concern in relation to the creation of a traffic hazard. I agree that the addition of a further dwelling along this minor road is unlikely to result in an excessive volume of traffic and lead to a traffic hazard. Furthermore, the position of the proposed site entrance will provide adequate sightlines on a lightly trafficked minor road without the requirement to remove excessive amounts of

mature hedgerow. I consider that there are no grounds to refuse permission in relation to the lack of a suitable vehicular entrance to the site.

7.5. Other Issues

- 7.5.1. The applicant intends 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 as is the dwelling to the east. 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, carried out by Corcoran Engineers and Architects.
- 7.5.2. The site characterisation assessment, submitted by the applicant, notes that no bedrock was identified in the trial pit, which was dug to 2.1m below ground level (bgl). The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme and categorises the site as being a locally important aquifer (LI) with extreme vulnerability. A Groundwater Protection Response of R2¹ is indicated. The soil type is described as 'Till derived chiefly from devonian sandstones'. T tests carried out on the site, at a level of 0.8m bgl, yielded an average T₁₀₀ value of 63.00. The standard method, where T₁₀₀ ≤ 210 minutes, was employed and yielded a result of T = 24.72. The report concludes by recommending a septic tank and percolation area with a capacity PE of 6.00 and a percolation area comprising of 6 trenches of 18m in length. The system will discharge to groundwater.
- 7.5.3. There was some initial concern from the planning authority with regard to the alignment of percolation trenches and the prevailing contours of the site. The matter was clarified by way of further information to the satisfaction the planning authority, drawing 1658 L003 refers, dated 12 December 2016. I would concur with the conclusion of the site assessment and the planning authority. The site appears suitable for the treatment of domestic wastewater in accordance with the requirements of the EPA Code of Practice.

7.6. Appropriate Assessment

- 7.6.1. Courtmacsherry Estuary SAC is located approximately 11.5 kilometres to the south of the appeal site. Having considered the available information, in my opinion, given the scale of the development proposed, the nature of the receiving environment, the site location distant from any European sites, the likely downstream separation distances involved, and subject to the proposed septic tank and percolation area complying with the requirements of the EPA Code of Practice, the proposed development would not be likely to have a significant effect on the SAC 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. 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 'Rural Area under Strong Urban Influence' as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in the current Cork Rural Design Guide: Building a New House in the Countryside, 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 the excessive amount of site excavation and mounding, 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.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site within 'Rural Area under Strong Urban Influence' as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Cork Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Note:

As the Reason for Refusal number 2 refers to a new issue in the appeal it should be subject to prior circulation.

Stephen Rhys Thomas
Planning Inspector

12 May 2017