



An
Bord
Pleanála

Inspector's Report PL04.247992

Development	Two-storey house and two-storey detached garage
Location	Burke's Hill, Lotamore, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/06861
Applicant(s)	Niall O'Connell
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Niall O'Connell
Observer(s)	None
Date of Site Inspection	11 th May 2017
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.61 ha is located at Burke's Hill, Lotamore, Cork to the east of Cork City. The site forms part of a larger agricultural field that is relatively flat but falls significantly to the east from the front of the site towards the rear of the site. The area is characterised as semi-rural with linear roadside residential development and agricultural use. The site is bound to the south by an uninhabited two storey dwelling. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file

2.0 Proposed Development

2.1. This is an application for the construction of a 2 –storey dwelling house, a 2-storey detached garage for the storage of agricultural machinery with domestic utility room at ground floor and agricultural storage at first floor, instillation of a waste water treatment unit, a new entrance from the public road and all associated site works. The proposed dwelling has a ridge height of 8.6 m and a floor area of 226 sqm. The detached garage has a ridge height of 7.065 m and a floor area of 166 sqm. The combined floor area of the dwelling and garage is 392 square metres.

2.2. The application was accompanied by the following:

- Planning Cover Letter
- Supplementary Planning Application Form
- Dept. of Agriculture Basic Payment Scheme Confirmations
- Teagasc and FETAC Certificates in Agriculture
- DETAC Cert in Farm Management and Teagasc Farming eligibility confirmation
- Letter from Parish Priest confirming historical residency in the area

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Cork County Council issued a notification of decision to refuse permission for the following reason:

The proposal is for a dwelling and detached garage on site that is located within the Prominent and Strategic Metropolitan Greenbelt Area requiring Special Protection. It is an objective of the Cork County Development Plan, GI 8-1, to protect prominent open hilltops that define the character of the Metropolitan Cork Greenbelt and preserve such areas from development. The individual housing needs of people who grew up within the Metropolitan Greenbelt are recognised, and such exceptional needs may be accommodated within the nearby area, subject to the availability of a suitable site. Notwithstanding the applicant's local rural housing need, having regard to the prominent location of the site, the visually sensitive nature of the landscape in this area and the general absence of screening on the eastern boundary, it is considered that the proposed development would give rise to an adverse visual impact, and would constitute an unacceptable intrusion onto the open nature of these green belt lands. The proposal would therefore conflict with an Objective of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports
- 3.2.2. The **Local Authority Planner** having considered the application recommended that planning permission be granted subject to conditions. The **Liaison Officer** in their report agreed with the recommendation of the Case Planner adding that “an alternative more suitable site should be investigated on the family landholding”. The **A/Senior Planner** recommended refusal as per the Case Planners report. The notification of decision to **refuse** permission issued by Cork County Council reflects this recommendation.
- 3.2.3. Other Technical Reports

3.2.4. The **Area Engineer** has no stated objection to the scheme subject to compliance with conditions set out in their report.

3.2.5. The **Environment Officer** recommended that the application be deferred as the garage proposed is not consistent with agricultural activities. Further information on the proposed use of the garage is required.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water** has no stated objection to the scheme.

3.3.2. **An Taisce** noted that the subject site is located on a prominent and strategic metropolitan greenbelt area, designated as high value landscape under the Cork County Development Plan 2014. The application is to be considered having regard to the Development Plan, National Policy and the EU Ground Water Directive.

3.4. **Third Party Observations**

3.4.1. There are no submission(s) / objection(s) recorded on the planning file.

4.0 **Planning History**

4.1. There is no evidence of any previous planning appeal at this location.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The operative plan for the area is the **Cork County Development Plan 2014 – 2020**. The site is located within the **Metropolitan Cork Greenbelt** and as such the following policy objectives are considered relevant:

5.1.2. **Policy RCI 4-1: Metropolitan Cork Greenbelt** states that the Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional 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 the following categories of housing need:

- a) Farmers, including 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) Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

In circumstances, where a family land holding is unsuitable for the construction of a house, consideration may be given to a nearby landholding where this would not conflict with Objective GI 81 and other policies and objectives in the plan.

The total number of houses within the Metropolitan Greenbelt, for which planning permission has been granted since this plan came into operation on a family farm or any single landholding within the rural area, will not normally exceed two.

- 5.1.3. **Objective GI 8-1: Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection** states that it is an objective to protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labelled MGB1 in the Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development.
- 5.1.4. **Sustainable Rural Housing Guidelines for Planning Authorities 2005** - The National Spatial Strategy identified categories of rural area types requiring differing settlement policies for rural housing. The Sustainable Rural Housing guidelines issued by the Department of the Environment Heritage and Local Government, April

2005 are based on the presumption that people who are part of the rural community should be facilitated by the planning system in all rural areas. All new house in rural areas should be sited and integrated well with their physical surroundings and should be generally compatible with inter alia, the protection of water quality in the arrangements made for on-site wastewater disposal facilities. In rural areas under strong urban influences, the NSS stresses that development driven by cities and larger towns should generally take place within their built up areas or in areas identified for new development through the planning process.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first Party Appeal has been prepared and submitted (10th February 2017) by Hudson Associates Architects on behalf of the applicant Niall O'Connell, and may be summarised as follows:
- The appellant is strongly in disagreement with the view of the Area Planner that there are significant views into this site particularly from the M25 approaching the Jack Lynch Tunnel; that the dwelling occupies a prominent position on this important open hill top; that the development would give rise to an adverse visual impact and that it would constitute an unacceptable intrusion into the open nature of the greenbelt.
 - Mindful of the sensitivity of the location, the appellant was careful to assess its visual impact on the important and vulnerable Greenbelt. However, the viewing points of the site are extremely difficult to locate given their remote distances, adjoining convex topography and extensive tree screening. Difficult to accept that there are significant views into the site.

- The proposed house and garage wherever fleetingly viewable from the M25 and the vicinity generally would be set against tall, continuous and mature stands of trees so cannot reasonably be deemed, to occupy a prominent position on the open hill top.
- Appeal was accompanied by photographs of representative existing views of the site and photomontage images of the proposed house and garage superimposed on these views for the Board's consideration. The first set of images show the house and garage painted white. A further set of images showing the house painted in more of an earth colour (RAL 7032) to demonstrate how, by this simple device, an even more marked visual assimilation into the site could be achieved.
- It is acknowledged that the garage is unusually large but this has been designed to accommodate both domestic items and the supporting agricultural machinery, equipment and stock necessary to farm and maintain the land. With both the applicant and his wife working, the house will be vacated during weekdays and it is essential that the tractor, trailer and other agricultural equipment necessary to farm even this small holding should be secured. To mitigate still further any visual impact on the Greenbelt, 'Draft' proposal for a relocated and reduced single-storey Garage and attendant photomontage images for this option for the Board's consideration and possible adoption is attached.
- With regard to suggestion of the Liaison Officer set out in his Report of 18th January, 2017 that an alternative more suitable site should be explored on the family holding, the Board will note from the OS Maps accompanying the application that the proposed location adjoins the only viably-accessible road frontage within the applicant's site which effectively precludes any alternative location.

6.1.2. **NOTE:** The submission was accompanied by a report from Conor Cleere BAgSc stating that the farming activity carried out by the applicant comprises 15 cattle grazing on a c10ha free draining lands at this location. As noted above the scheme was accompanied by a relocated and reduced garage proposal.

6.2. **Planning Authority Response**

6.2.1. There is no response from Cork County Council recorded on the appeal file.

6.3. **Observations**

6.3.1. There are no observations recorded on the appeal file

6.4. **Further Responses**

6.4.1. There are no further response recorded on the appeal file

7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key issues relating to the assessment of the appeal are:

- Principle / Policy Consideration
- Visual Impact
- Traffic Impact
- Drainage Services
- Appropriate Assessment
- Development Contributions)

7.2. **Principle / Policy Consideration**

7.2.1. The appeal site is located within the *Prominent and Strategic Metropolitan Greenbelt Area* requiring special protection. The Development states that retaining the Greenbelt into the future with exceptional housing demands and urban pressures represents a serious planning challenge and any incremental erosion of Greenbelt lands over time needs to be carefully monitored. The overall zoning objective for Greenbelt lands is for agriculture, recreation or open space uses. Therefore, it is a requirement of any applicant to demonstrate how they comply with policy objective *RCI 4-1 Metropolitan Cork Greenbelt* and satisfy the requirements of *GI 8-1 Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection*.

7.2.2. As set out previously Objective RCI 4-1: Metropolitan Cork Greenbelt states that the Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing and therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional 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 four categories of housing need. Cork County Council in their assessment were satisfied that the applicant in this case complied with Objective RCI 4-1 (d) which stated as follows:

(d) Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

7.2.3. The Case Planners Report states that *given the proximity of the site to the family home, 800 metres, it would appear that the applicant complies with the provisions of RCI 4- 1 (d) based on the information submitted in the supplementary form.*

7.2.4. However, having regard to the requirements of Objective RCI 4-1 (d) together with the information made available with the appeal file I disagree with this conclusion. I note from the covering letter submitted with the planning application that the applicant is one of three brother whose father has recently retired from farming. One son is continuing to work most of the land and has obtained planning permission for the construction of a house on those lands. Fifty remaining acres of farmland is being legally transferred and equally disposed between the applicant's brother and the applicant. It is submitted that the applicant farms this land on a part time basis (dry stock cattle) and also has salaried work as a refrigeration engineer. It is further noted that the applicant and his wife and child live in Rathcormac in a house that the applicant purchased in 2006. I refer to Question No 2 in the Supplementary Planning Application Form where it states that the applicant lived at Lotamore Farm (family home) until 2006 when he moved to Rathcormac and where he lives to date. While I agree with the Case Planner that the intention of the applicant to be engaged full time in agriculture, as indicated in question 3.1 of the Supplementary Application Form, is questionable, however it is not a requirement of Objective RCI 4-1 (d) to be involved in farming full time.

7.2.5. This is not the applicants first home as it is evident from the foregoing and therefore, the applicant does not have a housing need. Further it is evident that the applicant has not lived in the principal family residence (Lotamore Farm) for a minimum of seven years prior to the date of this planning application. In addition, and having regard to Objective RCI 4-1 the applicant does not comply with the remaining criteria set out in in this objective in that this is not that applicants first home, the applicant is not taking over the ownership and running of a farm on a fulltime basis, and is not working fulltime in farming, forestry, inland waterway or marine related occupations. Refusal is recommended.

7.3. Visual Impact

7.3.1. Cork County Council refused permission having regard to the prominent location of the site, the visually sensitive nature of the landscape in this area and the general absence of screening on the eastern boundary, and that the proposal would conflict with Objective GI 8-1: Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection.

7.3.2. Successive County Development Plans have identified the importance of protecting prominent areas of the Metropolitan Cork Greenbelt which are of strategic importance to the purpose and function of the Greenbelt and greenbelt settlements. These areas require the highest degree of protection because they are made up of the prominent open hilltops, valley sides and ridges that give Metropolitan Cork its distinctive character and the strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are shown labelled MGB1 on Figure 13.3 the Prominent and Strategic Metropolitan Greenbelt Map. Given that the site is located within the Prominent and Strategic Metropolitan Greenbelt, consideration must also be given to the provisions of GI 8-1 which seeks to protect these areas.

7.3.3. Objective GI 8-1: Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection states that *it is an objective to protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labelled MGB1 in the Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development.*

- 7.3.4. In terms of design and visual impact, the proposed two storey dwelling has a stated floor area of 226 sqm and a ridge height of 8.588 m. The proposed garage as originally submitted to the planning authority had a floor area of 166 sqm and a ridge height of 7.065m incorporating a mezzanine level. In the appeal submission the applicant submitted amended plans for the proposed garage breaking the structure into two elements comprising the utility area with a ridge height of 4.558m and a floor area of 32 sqm and the garage element with a ridge height of 5.56m and a floor area of 41 sqm. It is noted that the proposed dwelling has a utility room and therefore the purpose of an additional utility room of this scale within this detached garage is unclear.
- 7.3.5. I have noted the photomontages available with the appeal file. As set out above this is a sensitive landscape characterised as a prominent hilltop where any development requires careful consideration. The scheme before the Board, notwithstanding the amendments to the proposed garage, will occupy a prominent position on an important open hilltop, which the County Development plan seeks to protect. The proposed dwelling design is architecturally unsympathetic to the site and environs and demonstrates a lack of contextual awareness for this sensitive location. It is considered that the proposed development would give rise to an adverse visual impact, and would constitute an unacceptable intrusion onto the open nature of these green belt lands. The proposal would therefore conflict with an Objective GI 8-1 of the County Development Plan and would be contrary to the proper planning and sustainable development of the area. Refusal is recommended.

7.4. Traffic Impact

- 7.4.1. The proposed development site will be accessed via a new entrance arrangement onto an adjacent narrow roadway. The Area Engineer has assessed the application and considers that sight distance of 70m to the south and south shall be provided from the centre point of the entrance 3m back from the public road edge and that no vegetation or structure shall exceed 1 m in height within the sit distance triangle. Further an existing eircom pole in the sight line visibility envelop will need to be relocated to achieve the required sightlines.
- 7.4.2. As observed on day of site inspection the sightlines are severely restricted in either direction at the proposed entrance with the public road. In this regard I refer to the

site photos taken on day of site inspection. I am concerned that the works required to adequately facilitate safe access / egress from site would be excessive and would result in a high impact development at this sensitive rural location. I agree with the Case Planner that further information would be required detailing the extent of the modifications proposed at the roadside boundary in order to determine the likely impact of the works proposed. On balance, I considered that it is not necessary to include this as a second reason for refusal, in the light of the substantive reason for refusal set out above. However, any future application for development on this site would have to address the foregoing concerns particularly having regard to the sites location within a sensitive landscape.

7.5. Drainage Services

- 7.5.1. The development will be served by a private well “already installed, serving farmland” and a wastewater treatment system. According to the application form the WWTS design is “based on the enclosed site investigation report proposed by Harrington O’Flynn consulting Engineers”. This information has not been made available with the appeal. Neither the Area Engineer nor the Case Planner have highlighted any potential concerns with this aspect of the application.
- 7.5.2. As set out there are deficiencies in the information available on the appeal file. On balance, I considered that it is not necessary to include this as a second reason for refusal, in the light of the substantive reason for refusal set out above. However, any future application for development on this site would have to provide the necessary comprehensive information, in order to demonstrate whether or not such development would be acceptable on this site without undue risk to public health.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058)), it is reasonable to conclude on the basis of the information available, that the proposed development, individually and in combination with other plans or projects would not

be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

7.7. Development Contributions)

- 7.7.1. Cork County Council has adopted a Development Contribution Scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 2004. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

- 8.1. Having considered the contents of the application, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The appeal site is located within the Metropolitan Cork Greenbelt in the Cork County Development Plan 2014 – 2020 where policy objective Policy RCI 4-1: Metropolitan Cork Greenbelt states applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social and / or economic links to a particular local rural area. This policy is considered reasonable. Having regard to the information available in the submissions lodged with the application and appeal, the Board is not satisfied that the applicant has established an exceptional rural generated housing need for a house for permanent occupation at this location as outlined in the Cork County Development Plan 2014 – 2020. Accordingly, to permit the development would contravene the Rural Housing Policy of the current Development Plan and the provisions of the Sustainable Rural Housing Guidelines for

Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005.

2. The proposal is for a dwelling and detached garage on site that is located within the Prominent and Strategic Metropolitan Greenbelt Area requiring Special Protection. It is an objective of the Cork County Development Plan, GI 8-1, to protect prominent open hilltops that define the character of the Metropolitan Cork Greenbelt and preserve such areas from development. Having regard to the prominent location of the site, the visually sensitive nature of the landscape and the scale, design and location of the proposed dwelling house and garage it is considered that the proposed development would give rise to an adverse visual impact, and would constitute an unacceptable intrusion onto the open nature of these green belt lands. The proposal would therefore conflict with an Objective GI 8-1 of the County Development Plan and would be contrary to the proper planning and sustainable development of the area

Mary Crowley

Senior Planning Inspector

29th May 2017